

**DEPARTMENT OF CONSUMER AFFAIRS
LEGISLATIVE DIGEST
2003 Legislative Session**

A. GENERAL CONSUMER PROTECTION BILLS

(1) AUTOMOBILES/LEMON LAW

<u>Bill/Author</u>	<u>Title/Description</u>	<u>Disposition</u>
AB 213 Leslie	<u>Vehicles: Manufacturers: Disclosure</u> Restricts the use of data from recording devices installed in motor vehicles manufactured on or after July 1, 2004. Defines a "recording device" as a device installed by the manufacturer of a vehicle which does one or more of the following, for the purpose of retrieving data after an accident: 1) records how fast and in which direction the motor vehicle is travelling, 2) records a history of where the motor vehicle travels, 3) records steering performance, 4) records brake performance, 5) records the driver's seatbelt status, or 6) has the ability to transmit information concerning an accident to a central communications system at the moment the accident occurs. Provides that data recorded by a recording device is the sole property of the registered owner of the vehicle and may not be retrieved by any other person, except under specified circumstances. Requires that the presence of a recording device be disclosed in the vehicle owner's manual. Provides that recording devices which record where a vehicle travels or can transmit contemporaneous accident data that are part of a subscription service are not subject to the bill's restrictions on use of information. Requires that the presence of such devices be disclosed in the subscription service agreement.	Enacted Chapter #427
AB 219 Reyes	<u>Air Quality</u> Would delete the exemption for diesel powered vehicles from the Smog Check program requirements. Would require every heavy-duty diesel motor vehicle, whether or not part of a fleet, to be inspected for excessive smoke emissions annually. Also would require any vehicle used for agricultural or farming purposes, regardless of whether that vehicle operates on a public roadway, except an implement of husbandry, to be registered in California, subject to the provisions of the Smog Check program.	Two Year Bill
AB 377 Chan	<u>Vehicles: Exhaust Systems: Whistle-Tip</u> Prohibits and penalizes the use of, and the business of installing, whistle-tips. Whistle tips are small metal cylinders welded inside a custom-made tailpipe, which produce a high-pitched wail when the vehicle is being driven.	Enacted Chapter #432
AB 382 Correa	<u>Bureau of Automotive Repair: Cite and Fine Regulations</u> Would have required the Director of the Department of Consumer Affairs to adopt regulations implementing a system for the issuance of citations by the Bureau of Automotive Repair on or before April 1, 2004. This bill was later substantially amended to a non-related issue.	Died in Senate Revenue & Taxation Committee

AB 761 Oropeza	<u>Automotive Repair: Report Card Pilot Program</u> Would have created an "Automotive Repair Report Card Pilot Program," to be implemented by the Bureau of Automotive Repair in the counties of Los Angeles and San Jose, to provide for the public posting of whether or not any disciplinary actions had been taken against automotive repair dealers and their employees.	Died in Assembly Business & Professions Committee
AB 775 Parra	<u>Smog Check Program</u> Would define "extensive marketing research," with regards to the implementation of the Smog Check Program, to include information provided by any statewide association of test and repair station owners.	Two Year Bill
AB 970 Correa	<u>Automotive Repair Regulations</u> Would provide that the Director of the Department of Consumer Affairs may adopt and enforce rules and regulations determined as reasonably necessary to promote a fair, healthy, and competitive automotive repair marketplace for the consumer.	Two Year Bill
AB 1079 Bermudez	<u>Automotive Repair</u> Would define the term "customer" for purposes of the Automotive Repair Act. Would specify who may be designated to authorize auto repair work to be performed, and corrects an erroneous cross-reference in the auto repair law.	Two Year Bill
AB 1227 McCarthy	<u>Insurance Fraud: Theft: Bureau of Automotive Repair</u> Would specifically list the Bureau of Automotive Repair, for the purpose of investigating auto repair or auto insurance fraud, among the agencies authorized to request and receive motor vehicle theft or motor vehicle insurance fraud information from insurers. Would provide that the bill is declarative of existing law.	Two Year Bill
AB 1316 Parra	<u>Smog Check II: Coastal Districts: Study</u> Would require the State Air Resources Board to conduct a study evaluating the benefit to air quality in the state that would result from requiring all air quality management districts and air pollution control districts located along the state's coastline between Los Angeles and the San Francisco bay area to participate in smog check II, irrespective of each district's attainment status with respect to state and federal ambient air quality standards. Would require the state board to report the results of the study to the appropriate policy committees of the Legislature not later than January 1, 2005.	Two Year Bill
AB 1624 Benoit	<u>Air Pollution: Smog Check</u> Would prohibit the Bureau of Automotive Repair from requiring more than an unspecified percentage of vehicles in enhanced areas of the state to obtain a certificate of compliance from a test-only station.	Two Year Bill

SB 508
Escutia

Automobile Sales Financing

Enacted
Chapter #59

Requires automobile dealers to maintain for at least seven years, or the length of the conditional sales contract, whichever is longer, copies of their conditional sales contracts, documents relied upon to determine a buyer's creditworthiness, and the terms of any subsequent sale, assignment, or transfer of a contract. Provides that if a dealer fails to comply with a court order to produce those documents, the dealer would be liable in an action brought by the Attorney General for a civil penalty of \$5,000.

SB 551
Speier

Insurance: Automotive Repair Dealers

Enacted
Chapter #791

Codifies existing regulations that prohibit insurers from "steering" claimants to a specific automobile repair shop, and requires additional disclosures by insurers relating to the rights of the insured to have their car repaired at a shop of their choosing.

SB 708
Florez

Air Pollution: Motor Vehicles

Enacted
Chapter #482

Allows a low-income owner of an excessively smoking vehicle who was issued a "notice to correct," to participate in the state's vehicle repair assistance program. Authorizes counties to establish combined smoking vehicle and sobriety checkpoints and fund the checkpoints with increased fine revenue from smoking vehicle citations. Increases the base fine for second and subsequent smoking vehicle citations by \$35 for the purpose of paying for the cost of a combined vehicle inspection and sobriety checkpoint program authorized by the county.

(2) BUSINESS PRACTICES

AB 88
Corbett

Contracts: Telemarketing

Enacted
Chapter #77

Codifies into state law a recent rule adopted by the Federal Trade Commission. The rule requires that when a telemarketer offers a product or service to a consumer on a free trial basis and the transaction involves pre-acquired billing information, the telemarketer must obtain the consumer's express informed consent before imposing any charge on a consumer's financial account.

AB 202
Corbett

Birds: Sale

Enacted
Chapter #887

Prohibits a pet shop from possessing or selling unweaned parrots to consumers unless that pet shop employs at least one person who has completed the Pet Industry Joint Advisory Council's avian certification program. Also prohibits a vendor from selling an unweaned bird at a swap meet or bird mart. Requires a pet shop or a vendor to document the weight of any hand-fed bird under one year of age, and note the weight on the sales receipt at the time of sale. Provides that these provisions do not apply to publicly operated pounds and humane societies. Specifies that this prohibition becomes operative on September 1, 2004.

AB 224 Kehoe	<u>Identity Cards: Use and Retention of Personal Information</u>	Two Year Bill
	Would prohibit retailers from electronically reading an identity card, except under specified circumstances, and establish an opt-in process to allow retailers to retain information upon consent from the consumer. (Note: The authors' office indicated that it does not plan to pursue this bill because SB 602 (Figueroa, Chapter 533, Statutes of 2003) enacted restrictions on the use and retention of information encoded on driver's licenses and ID cards.)	
AB 286 Dutra	<u>Mechanics' Liens</u>	Two Year Bill
	Would provide a "good faith payment rule" to protect a homeowner from mechanics' liens and stop notices if he or she has already made payment to the general contractor. Would provide that for home improvement contracts executed in an amount of \$15,000 or less, the homeowner may set-off the amount of good faith payments made to the original contractor against the aggregate amount of mechanics' lien claims made against the property.	
AB 309 Chu	<u>Contracts: Foreign Languages</u>	Enacted Chapter #330
	Requires a business that primarily negotiates certain consumer contracts in Chinese, Tagalog, Vietnamese, or Korean to provide the consumer with a written translation of the contract in that language prior to the execution of the contract. Specifies that this provision becomes operative on July 1, 2004.	
AB 451 Lowenthal	<u>Cellular and Wireless Telephone Service Billing Statements</u>	Died in Senate
	Would have added provisions to the "Unfair Practices Act" that would require a cellular or wireless telephone service provider to include in a customer's bill specified information relating to the customer's calling plan, including information regarding the minutes included in the plan, rates for additional minutes, rates for certain services, rates for messages or images, and contract terms and conditions.	
AB 558 Correa	<u>Health Studio Contracts: Maximum Fees</u>	Two Year Bill
	Would require the existing \$1000 limit on health studio service contracts to be adjusted annually according to a specified consumer price index.	
AB 567 Simitian	<u>Unsolicited Electronic Mail Advertisements</u>	Two Year Bill
	Would modify existing law to authorize the recipient of an unsolicited electronic mail advertisement to bring an action against the sender to recover actual damages or \$1,000, whichever is greater, for each violation. Also would establish that an electronic mail service provider whose policy on unsolicited electronic mail advertisements is violated may bring a civil action to recover the actual monetary loss in the amount of \$100 for each electronic mail initiated or received, up to a maximum of \$50,000 per day, whichever amount is greater.	
AB 629 Oropeza	<u>Outdoor Advertising</u>	Died in Assembly Governmental Organization Committee
	Would have expanded the provisions of the "Outdoor Advertising Act" to exempt from the prohibition against advertising displays along landscaped freeways, any advertising display located on public property that is owned by a city, county, or school district which meets certain conditions.	

**AB 665
Correa**

Discount Buying Organizations

Two Year Bill

Would exempt from the provisions regulating contracts for discount buying services those paid no more than \$200 for the purchase of discount buying services, that maintain a bond of \$40,000, and that establish, maintain, and file with the Secretary of State specified information regarding a \$100,000 escrow account. Also would require that the \$200 limit for the purchase of discount buying services be adjusted annually according to the California Consumer Price Index for All Urban Consumers beginning on January 1, 2005.

Originally, the bill would have prohibited a person from serving as a public member of the California State Board of Accountancy (CBA), if he or she represented a public accounting firm, bookkeeping firm, or tax preparation firm. A public member of the CBA is a lay person, one who is not professionally involved in the accounting industry.

**AB 790
Frommer**

Termination of Self Service Storage Agreement: Notification

**Enacted
Chapter #267**

Amends the "California Self Service Storage Act" to allow storage operators to mail agreement termination notices via first-class mail, rather than by certified mail, if operators obtain a "certificate of mailing" from the post office that indicates the date the notices were mailed.

**AB 830
Oropeza**

Service Stations: Restrooms

Two Year Bill

Would require every service station in the state, regardless of location, to provide public restrooms for its customers.

**AB 842
Vargas**

Time-Share Estates

**Died in
Senate
Judiciary
Committee**

Would have extended a timeshare purchaser's contract cancellation period from three days to seven days in which event the purchaser would be entitled to a 100 % refund of the consideration paid under the contract, without deduction. Also would have specified the requirements for cancellation notices, contract translations and disclosures regarding timeshare transactions.

**AB 845
Vargas**

Household Goods Carriers

**Enacted
Chapter #646**

Prohibits a household goods carrier (i.e., moving company) who operates without a valid permit issued by the Public Utilities Commission from bringing any legal action for moving services rendered and allows a consumer who used an unlicensed carrier to recover all compensation paid to that mover. Requires disclosure of the "Not to Exceed" contract price three days in advance of the move. Requires a carrier to release goods upon payment of the "Not to Exceed" price. Limits a carrier's lien on goods to the "Not to Exceed" price and places additional restrictions on the lien rights available to carriers. Makes a carrier jointly and severally liable for loss and damage caused by a sub-hauler.

**AB 893
Mountjoy**

Local Government: Licenses

**Died in
Assembly
Appropriation
s Committee**

Would have extended the veteran's exemption from the payment of state and local business license taxes and fees to active members of the armed forces and to former members who had received honorable discharges from active duty or a release from active duty under honorable conditions.

AB 1000 Dutra	<u>Corporations: Disclosure Statement</u>	Two Year Bill
	Would require corporations to file stock option plan information with the Secretary of State, and require nonprofit corporations to file a statement of information annually instead of biennially with the Secretary of State.	
AB 1078 Runner	<u>Business Transactions: Telephone Solicitations: Rescission of Contracts</u>	Died in Assembly Business & Professions Committee
	Would have required a person who contacted a consumer by telephone in order to solicit a magazine, newspaper, or newsletter subscription renewal or extension to notify the consumer of the termination date of the current subscription prior to requesting the consumer to renew or extend the subscription, and would have made a violation a crime.	
AB 1092 Harman	<u>Gift Certificates: Service Fees</u>	Enacted Chapter #116
	Prohibits the sale of retail gift certificates containing maintenance or service fees and clarifies that "gift certificate" includes a gift card. Specifies that these provisions apply only to gift certificates issued on or after January 1, 2004, and that this bill creates no inference with respect to the validity or invalidity of any service fee imposed prior to the effective date.	
AB 1265 Benoit	<u>Engineers and Land Surveyors: Limited Liability Partnerships</u>	Died in Senate Judiciary Committee
	Would have authorized an engineer and a land surveyor to practice within the scope of his or her licensure as a limited liability partnership.	
AB 1325 Houston	<u>Small Business</u>	Died in Assembly Committee on Jobs, Economic Development and the Economy
	Would have required each state agency that significantly regulates small business or that significantly impacts small business to designate a small business liaison to post on its Web site the name and telephone number of its small business liaison and the small business advocate.	
AB 1333 Spitzer	<u>Mechanics' Liens: Design Professionals</u>	Two Year Bill
	Would provide that a pay-if-paid provision in a contract between a design professional, as defined, and a consultant to perform services in anticipation of a work of improvement is enforceable if the services are performed prior to the commencement of the site improvement, as specified.	
	Would define a "pay-if-paid" provision as a contractual provision that conditions a design professional's obligation to pay a consultant upon the design professional's receipt of payment. Would specify that it is intended to clarify the effect of a certain California Supreme Court decision with regard to pay-if-paid provisions, as specified, but is not intended to nullify that decision in other respects.	

AB 1449 Firebaugh	<u>Outdoor Advertising</u> Allows a relocation agreement or increase in height for an advertising display if a building, construction, or structure, including a bridge, overpass, or underpass, has been or is being erected by a governmental entity that obstructs the display's visibility.	Enacted Chapter 577
AB 1540 Runner	<u>Outdoor Advertising: Permits</u> Would have exempted applications for the renewal of a valid existing permit for an outdoor advertising display that were received on or before December 31, 2002, from the requirements for written evidence that both the owner or person in control of the property and the city or county in which the property is located consent to the placing of the advertising display.	Died in Governmental Organization Committee
AB 1553 Wesson	<u>Service Contracts</u> Changes the definition of "service contract" by expanding the items that a contract may cover to also include furniture, jewelry, and specified equipment and appliances. Provides service contract sellers with a new means to satisfy financial reserve requirements.	Enacted Chapter #775
AB 1664 Montanez	<u>Bank Customer Bill of Rights Act</u> Would prohibit banks from: 1) selling private credit information about a consumer to a marketing business without the consumer's consent; 2) charging consumers for using the bank's automated teller machine an overdraft penalty that is \$30 or more without providing a prior notice; 3) issuing a credit card that has an interest rate that is greater than two percent above the prime rate; and 6) charging a customer with a higher than average interest rate on a loan if the customer qualifies for a lower interest rate and the bank has not made the customer aware of that fact.	Two Year Bill
AB 1694 Wiggins	<u>Bail Services: Advertising</u> Would have prohibited a bail licensee from advertising or soliciting bail services in any building used, in whole or in part, for the detention of criminally accused or sentenced persons, and in related areas, except as specified.	Withdrawn by Author
AB 1721 Koretz	<u>Prices: Overcharges</u> Would have prohibited any person, at the time of sale of a commodity, from charging an amount greater than the price, or computing an amount greater than a true extension of the price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity. Also would have provided that when more than one price for the same commodity is advertised, posted, marked, displayed, or quoted, the person offering the commodity for sale must charge the lowest of those prices.	Died in Senate Business & Professions Committee
AB 1781 Committee or Governmenta Organization	<u>Secondhand Dealers</u> Would provide that the term "secondhand dealer" does not include a business that has obtained a seller's permit and that accepts secondhand tangible personal property in exchange for credit that may be used to purchase other tangible personal property from the business.	Two Year Bill

SB 12 Bowen	<u>Electronic Mail Advertising</u>	Died in Senate Business and Professions Committee
	<p>Would have deleted existing law that provides the recipients of unsolicited electronic mail advertisements with the ability to contact the sender in order to remove the recipient's address from the sender's mailing list and, instead, prohibited the sending of unsolicited e-mail ads from California or to a California e-mail address. Would have authorized recipients or electronic mail service providers to bring an action to recover either actual damages or \$500 for each individual violation, whichever is greater, up to a maximum of \$200,000 per day, and allowed the recovery of reasonable costs and attorney's fees. Would have specified that if the court finds that an unsolicited commercial e-mail violation was willful or knowingly committed, the court may increase the award to three times the amount otherwise allowed.</p>	
SB 27 Figueroa	<u>Personal Information: Disclosure to Third Parties for Marketing Purposes</u>	Enacted Chapter #505
	<p>Requires businesses, effective January 2005, that disclose their customers' personal information to third parties for direct marketing purposes to either: 1) provide customers, within 30 days of their request, with the categories of information disclosed, the names and addresses of the third parties, and examples of the products marketed; or, 2) maintain a privacy policy that provides consumers with a cost-free way to opt-in or opt-out of information sharing.</p>	
SB 31 Figueroa	<u>Home Inspectors</u>	Two Year Bill
	<p>Would create title protection for the term "certified home inspector," similar to what currently exists for "certified interior designers." Also would require specific disclosure statements that all home inspectors would have to provide to prospective clients. The disclosures are similar to those currently required and used by home improvement contractors and swimming pool contractors. Would add to the list of activities that constitute unfair business practices for home inspectors. (This bill is a reintroduction of SB 1332 (Figueroa) of 2002.)</p> <p>A "certified home inspector," under this bill, would have to demonstrate that he or she has specified education and experience qualifications to conduct a home inspection. In addition, the inspector must pass a knowledge, skills and aptitude examination endorsed by a home inspection professional association.</p>	
SB 33 Figueroa	<u>Telephone Solicitations</u>	Enacted Chapter #779
	<p>Revises California's "do not call" (DNC) telemarketing restriction law to coordinate with the recently adopted federal DNC law.</p>	

**SB 113
Ackerman**

Mechanics' Liens

**Enacted
Chapter #22**

Sponsored by the California Law Revision Commission (CLRC), establishes a simplified process to enable a mechanics lien claimant to protect his or her arbitration rights when filing a lien foreclosure action. Allows the claimant, when filing an action to enforce a lien, to state an intention to file a motion to stay (stop) the lien action, rather than actually having to file and serve the motion to stay, in order to retain the right of arbitration of the issue.

**SB 134
Figueroa**

Private Works of Improvement: Liens

**Enacted
Chapter #54**

Requires the owner of a private work of improvement to directly notify the original contractor and any other claimant who has filed a preliminary lien notice, that a project has been completed or stopped. This notice by the owner of a private work project, as specified, must be made within 10 days of recordation of the notice of completion or cessation with the county. Failure by the project owner to provide this notice extends the time period to file a mechanic's lien to 90 days, as specified. This extension is the sole liability incurred for failure to give the notice. Also defines the project "owner" but exempts homeowners who occupy an improved property of four or fewer units from that definition.

**SB 136
Figueroa**

Contracts

Two Year Bill

Would provide consumers with increased disclosure for certain contracts by: 1) requiring a service contract seller who provides a guarantee or warranty in conjunction with a service contract to disclose the nature and extent of the guarantee or warranty and give a clear explanation of the guarantee or warranty coverage; 2) requiring a licensed real estate broker who is acting as an agent for a buyer to explain all the restrictions, exclusions, and limitations in a home protection contract, when such a contract is offered as part of a residential real property transaction; and 3) requiring that home protection contracts set forth the services that may not be performed due to improper previous repairs, improper installation, design deficiency, or preexisting conditions, and any restrictions on the companies that may be used for the performance of services.

**SB 146
Escutia**

Contracts: Spanish Translation

**Enacted
Chapter #589**

Specifies that businesses that negotiate certain contracts or agreements primarily in the Spanish, Chinese, Tagalog, Vietnamese, or Korean language must provide the consumer with a translation of every term and condition in that contract or agreement, prior to the execution of that contract or agreement. SB 146 is double-jointed with AB 309 (Chu, Chapter 330, Statutes of 2003) which extended existing protections for contracts negotiated in Spanish to Californians negotiating in Chinese, Tagalog, Vietnamese or Korean.

**SB 186
Murray**

Privacy: Unsolicited Commercial e-Mail Advertising

**Enacted
Chapter #487**

Prohibits sending unsolicited electronic mail, with certain exemptions for existing business relationships, and creates stronger penalties and legal recourse for consumers who receive unsolicited electronic mail. Allows for penalties to be served on the advertisers themselves as opposed to the senders, resulting in increased deterrence.

SB 342 Florez	<u>Unsolicited e-Mail Advertisements</u>	Two Year Bill
	Would prohibit a person from sending an unsolicited e-mail advertisement unless it also includes the sender's identity, postal address, and e-mail address or telephone number along with a toll-free telephone number or valid return address already required under existing law that the recipient can contact to notify the sender not to e-mail any further unsolicited documents to the e-mail address or addresses specified by the recipient.	
SB 455 Torlakson	<u>Home Equity Sales Contracts</u>	Enacted Chapter #74
	Authorizes a court to award up to \$2,500 in civil penalties to a homeowner who prevails against an equity purchaser for certain violations such as transferring property prior to the cooling off period, not following contract terms, fraud, or misleading or unconscionably taking advantage of a property owner. Increases the maximum criminal fine from \$10,000 to \$25,000 for such violations.	
SB 505 Perata	<u>Payments: Postmarks</u>	Two Year Bill
	Would enact the Postmark Payment Act that says any payment sent by mail shall be deemed received by the payee on the date of the United States post mark stamped on the envelope or other cover in which the payment is mailed. Would not pertain to payments subject to another California or federal law that specifies how the date of a postmark is to be used, or a payment required to be delivered by a method other than United States mail.	
SB 508 Escutia	<u>Automobile Sales Financing</u>	Enacted Chapter #59
	Requires automobile dealers to maintain for at least seven years, or the length of the conditional sales contract, whichever is longer, copies of their conditional sales contracts, documents relied upon to determine a buyer's creditworthiness, and the terms of any subsequent sale, assignment, or transfer of a contract. Provides that if a dealer fails to comply with a court order to produce those documents, the dealer would be liable in an action brought by the Attorney General for a civil penalty of \$5,000.	
SB 584 Alarcon	<u>Advertising</u>	Two Year Bill
	Would require persons operating in the financial institution, insurance, public utility, credit union, money transferer, automobile dealer, or check cashing business who advertise, promote or market their products or services in Spanish, Chinese, Tagalog, Vietnamese, or Korean to inform a limited or non English-speaking consumer about his or right to request translated written information and, upon that request, to provide translated written information on the rates, terms, and conditions for that product or service advertised. Specifies these provisions become operative on January 1, 2005.	

**SB 590
Speier**

Consumers' Personal Information: Collection and Use by Merchants

Vetoed

Would have prohibited merchants from requesting or requiring a consumer to provide personal information when it is not necessary to complete the transaction. Also would have prohibited the merchant from sharing personal information with a third party (including affiliates), unless the transaction was necessary or the consumer was given the chance to opt-out of such information sharing.

**SB 602
Figueroa**

Identity Theft Prevention and Assistance Act

**Enacted
Chapter #533**

Enacts a series of measures related to credit reporting agencies, business practices, and identity theft investigations designed to prevent identity theft and assist identity theft victims. Specifically: 1) Requires credit reporting agencies (CRAs) to notify consumers when security alerts expire; 2) Creates penalties for CRAs that intentionally fail to place security alerts; 3) Caps the fee CRAs charge for security freezes at \$10 and \$12; 4) Creates a new misdemeanor that prohibits businesses from retaining information obtained by swiping driver's licenses and ID cards; 5) Requires specified businesses that receive a change of address for a replacement credit card or for new service to notify consumers of the change of address within 30 days; 6) Creates a process for the courts to compel a business to produce evidence of identity theft to victims about unauthorized accounts in their names, and enables victims to sue for damages for non-compliance; 7) Specifies that the local law enforcement agency in the victim's jurisdiction *may* refer the case to the law enforcement agency where the crime was committed for further investigation, which clarifies that the local law enforcement agency may investigate the crime itself and has a choice as to whether to forward it onto another jurisdiction.

**SB 736
Speier**

Sellers of Travel

**Enacted
Chapter #196**

Deletes the repeal date for the "Sellers of Travel" law and extends its provisions indefinitely. Expands the definition of who may file a claim with the Travel Consumer Restitution Fund and the time limits on when that claim may be filed.

**SB 766
Florez**

Securities Violations: Remedies

**Died in
Senate**

Would expand the circumstances under which officers and directors can be sued for allegations of securities fraud. Would reverse various recent court decisions relating to security violations.

**SB 1022
Perata**

Debt Collectors

**Enacted
Chapter #259**

Requires third party debt collectors, when attempting to collect debts, to include in the first written correspondence a disclosure that sets forth the consumer's rights, as specified under the federal Fair Debt Collection Practices Act. A third party debt collector that fails to furnish that notice would be liable for damages and a penalty as specified. Also requires that the notice be sent in the language used to initially contact the debtor, if a language other than English is being used.

(3) COURT SYSTEM & LEGAL SERVICES

**AB 95
Corbett**

Unfair Competition: Private Actions

Two Year Bill

Would require a plaintiff, at the time of service of a complaint or demand letter in any private action brought in the public interest to enforce the Unfair Competition Law (UCL), to serve the defendant with a notice of the defendant's rights in UCL actions, including a right to a court review of any settlement or other pre-trial disposition of the action. Also would clarify that defendants cannot be joined in a UCL action just because they are engaged in the same or similar types of businesses and are alleged to have violated the same or similar laws. This bill is double-joined to SB 122.

**AB 102
Pacheco**

Unfair Competition: Limitations

**Failed in
Assembly
Judiciary
Committee**

Would have imposed additional limitations on consumers bringing an action under California's Unfair Competition Law including, among other things, that a plaintiff have suffered distinct and palpable injury, and have served a notice of intent to sue on the defendant 90 days prior to bringing the action. This would preclude any action by a plaintiff if a public prosecutor or another consumer has brought an action against the same defendant.

**AB 167
Harman**

Probate

**Enacted
Chapter #32**

Sponsored by the California Law Revision Commission (CLRC), updates various statutory provisions of the Probate Code to correct internal, and external cross-references to other codes. Makes related technical, non-substantive changes. Also makes specified clarifications regarding separate property transactions for spouses and children.

**AB 182
Harman**

Exempt Property: Evaluation

**Enacted
Chapter #379**

Sponsored by the California Law Revision Commission (CLRC), creates a mechanism for automatic adjustment for inflation of the amounts of personal property exempt from enforcement in bankruptcy proceedings or proceedings to enforce a money judgement. A money judgement is a final order, decree or judgement of a court where a defendant is required to pay a sum of money; e.g., the defendant is in debt for \$10,000 and cannot pay his creditor(s), who take the defendant to court. Increases the statutory value of various forms of real and personal property that are exempt under money judgements.

Under California Code of Civil Procedure §703.120(a), the CLRC is charged with the responsibility to review the dollar amount of debtors' exemptions under the Enforcement of Judgements Law every ten years and recommend any changes in the amounts "that appear proper."

**AB 193
Cohn**

State Bar of California: Audits

Two Year Bill

Would require the Board of Governors (Board) at the State Bar to contract for a performance audit every 4 years. Existing law requires the Board to contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations for the respective fiscal year every two years.

AB 223 Diaz	<p><u>Employment</u></p> <p>Overturns a recent holding of the State Supreme Court regarding the award of attorneys fees and costs, following the unsuccessful appeal of a State Labor Commissioner (LC) decision or award to the trial court, and specifies that an employee is successful in the appeal of a LC award so long as the employee recovers an amount greater than zero.</p>	Enacted Chapter #93
AB 270 Bates	<p><u>Jury Service: Peace Officer Exemption</u></p> <p>Would exempt harbor and port police from civil or criminal jury duty.</p>	Two Year Bill
AB 418 Pacheco	<p><u>Civil Actions: Service of Summons</u></p> <p>Allows process to be served on a corporation or other type of business by leaving a copy of the summons and complaint at the business's usual mailing address, rather than their office, during usual office hours with the person who is apparently in charge of the mailing address. This process will be followed by an additional mailed copy to the person to be served at the same place where the complaint was left.</p> <p>Also allows the service of process on a business whose form of organization is not known to the plaintiff, by personally delivering a copy of the summons and complaint to the person who is apparently in charge of the office of the business, followed by service by mail. Service under this statute is not valid for a corporation with a registered agent for service of process listed with the Secretary of State.</p>	Enacted Chapter #128
AB 447 Vargas	<p><u>Lien Claims: Release: Attorneys' Fees</u></p> <p>Raises the cap amount of attorney's fees that may be collected in a petition to remove an expired mechanic's lien from a property. Increases the maximum amount of attorney's fees that may be recovered by a prevailing party from \$1000 to \$2000. Clarifies that a removal petition may be filed, if no foreclosure action is pending. Also makes non-substantive grammatical changes.</p>	Enacted Chapter #279
AB 452 Lieber	<p><u>Small Claims Court</u></p> <p>Would have made non-substantive, technical changes to existing law specifying that the jurisdiction of small claims court include various actions in which the demand does not exceed \$5,000.</p>	Died in Assembly
AB 599 Dutton	<p><u>Unfair Competition: Private Enforcement</u></p> <p>Would have imposed various requirements with respect to an unfair competition action that is brought by a person other than the Attorney General, a district attorney, a county counsel, or a city attorney. Would have required the person to have a good faith belief that each defendant had engaged in the alleged misconduct. Court approval would be required prior to dismissal or compromise of an action brought by a private person on behalf of the general public. Would have barred any further similar representative actions against the same defendant based upon like facts and liability theories.</p>	Died in Assembly Judiciary Committee

**AB 634
Steinberg**

Elder Abuse Actions: Confidentiality

**Enacted
Chapter #242**

Provides that: 1) it is the policy of the state that confidential settlement agreements are disfavored in elder abuse cases and requires a showing before the court before a confidential settlement agreement in this type of case may be recognized or enforced by the court; and 2) information acquired through discovery in an elder abuse case that is protected from disclosure by a stipulated protective order shall remain subject to the protective order, except for information that is evidence of elder abuse. For that information, this statute establishes a process for court review before that information may be disclosed.

Clarifies 1) that the dollar amounts in any settlement agreement may continue to remain confidential under this bill and 2) that the provisions of this bill do not apply to medical malpractice actions subject to the Medical Injury Compensation Reform Act.

**AB 754
Bogh**

Unfair Competition: Definition

Two Year Bill

Would revise the definition of unfair competition to instead require a practice, rather than an act, of the specified misconduct. Also would define the term practice for these purposes.

**AB 903
Steinberg**

Construction Defect Cases

**Enacted
Chapter #762**

Clarifies the affirmative defenses available to subcontractors, design professionals, materials suppliers, individual product manufacturers and any other party subject to the specified title in construction defect litigation. Specifically, affected parties other than builders will have the same affirmative defenses specified in the construction defect statute. Amends the law regarding construction defect disputes by clarifying the term "builder." Corrects typographical errors in the statute and reorganizes procedural provisions under the statute.

**AB 1101
Steinberg**

Attorney-Client Confidences

**Enacted
Chapter #765**

Provides for an exception to attorney-client privilege relating to confidentiality. Allows an attorney to disclose a client confidence when the attorney believes that the disclosure would be necessary to prevent a criminal act that would likely result in the death or substantial bodily harm to a person.

**AB 1106
Horton,
Jerome**

Peace Officers: Confidential Records

**Enacted
Chapter #102**

Extends the rules exempting investigations or proceedings concerning the conduct of police officers or a police agency by a grand jury or public prosecutor from the usual rules requiring confidentiality of law enforcement personnel records to also exempt the personnel records of "peace officers" and "custodial officers."

**AB 1143
Simitian**

Civil Procedure: Internet Communications

Two Year Bill

Would add internet service providers to the statutory list of witnesses who have and maintain personal records of a consumer that may be subject to a subpoena duces tecum for the providing of a consumer's personal records in connection with a civil action or proceeding. A subpoena duces tecum is defined as a process by which the court, at the request of a party, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial.

AB 1210
Nakano

Notaries Public: Qualifications

Enacted
Chapter #513

Establishes new notary public (Notary) qualification requirements that must be met before applicants may be appointed as a Notary by the Secretary of State (SOS), and will be effective for appointments made on or after January 1, 2005. These requirements include a six-hour course of study approved or provided by the SOS. Prescribes a specified civil penalty for violation of the provisions of this bill by a provider of Notary education.

AB 1231
Simitian

Arbitration Agreements

Two Year Bill

Existing law requires a person serving as a neutral arbitrator pursuant to an arbitration agreement to comply with specified ethics standards for arbitrators adopted by the Judicial Council. Existing law also requires a neutral arbitrator to disclose all matters that could cause a person to doubt the arbitrator's ability to be impartial in arbitration. This bill would create an exemption from those provisions for a real estate licensee assisting in a dispute resolution solely for real estate licensees administered by a trade association or multiple listing service, as defined, for disputes between members and not consumer disputes.

AB 1386
Shirley
Horton

Contractors

Enacted
Chapter #289

Prohibits contractors from using the "substantial compliance" doctrine if they have never been licensed. The "substantial compliance" doctrine deals with the essential, not exact, requirements of a contract or a statute. This doctrine allows a person that has met only the essential terms of such an agreement, under specified circumstances, to be recognized as having fulfilled that agreement, less any damages resulting from any deviation from the promised performance required under the contract or statute.

AB 1448
Liu

Elder & Dependent Adult Abuse: Civil Actions: Binding Arbitration

Died in
Assembly

Would have prohibited a long-term care facility from: 1) requesting in its admission contract, or otherwise prior to a dispute, that a resident or applicant agree to arbitrate or otherwise waive any rights or procedures provided under the Elder Abuse and Dependent Adult Civil Protection Act (Act). This includes, but is not limited to, the right to file a civil action against the facility for violation of the Act; 2) retaliating against an applicant or resident because he or she refuses to waive rights or procedures provided for in the Act or to sign or comply with an arbitration agreement in violation of this bill.

Would not have prohibited long-term care facilities and residents or applicants for admission from knowingly and voluntarily agreeing to arbitration of abuse law claims after a dispute arises.

AB 1708
Assembly
Judiciary
Committee

State Bar of California

Enacted
Chapter #334

Extends the existing ability of the State Bar of California (Bar) to collect up to \$310 as basic annual Bar membership dues for the year 2004. Also authorizes the Bar to pursue orders for disciplined attorneys to pay the costs of their disciplinary process as money judgements. Permits the Bar to pursue money judgements against attorneys whose bad conduct has necessitated payments out of the Client Security Fund.

AB 1711 Assembly Judiciary Committee	<u>Attorneys: State Bar Act of California</u> Would change the name of the State Bar Act to the State Bar Act of California.	Two Year Bill
AB 1713 Assembly Judiciary Committee	<u>Consumer Arbitration Agreements</u> Would add definitions and provide remedies relating to the obligations of private arbitration companies. These remedies would include penalties for statute violations by a private arbitration company or self-regulatory organizations.	Two Year Bill
AB 1714 Assembly Judiciary Committee	<u>Arbitration: Consumer Arbitration Agreements</u> Among other things, would specify that if a consumer arbitration agreement entered into or renewed on or after January 1, 2004, designates one or more exclusive private arbitration companies or self-regulatory organizations (SRO), or incorporates the arbitration rules of a private arbitration company or SRO, the consumer party has the option, after a dispute arises, to choose a different neutral private arbitration company or SRO. Would specify that if the agreement is entered into or renewed on or after January 1, 2004, the arbitration agreement shall plainly notify the consumer of this right, as specified, as well as of the right to obtain information about private arbitration companies. Also would prohibit an arbitrator or private arbitration company from administering or otherwise participating in a consumer arbitration in violation of these provisions.	Two Year Bill
AB 1715 Assembly Judiciary Committee	<u>Employment Arbitration Agreements</u> On or after January 1, 2004 would have 1) made it an unlawful employment practice for a covered employer (one having five or more employees) to require an employee to waive any rights or procedures under the Fair Employment and Housing Act (FEHA) as a condition of employment or continued employment; 2) prohibited an employer from taking any adverse employment action against a person for refusing to waive rights or procedures under FEHA, and 3) made unenforceable any arbitration agreement between an employer and employee that violates the above prohibitions. Would have provided that any waiver of rights or procedures provided under FEHA must be knowing, voluntary, and not made a condition of employment or continued employment, and that any such waiver shall be deemed involuntary, unconscionable, against public policy, and unenforceable. Would have specified that the employer has the burden of showing that such a waiver as to any agreement that is entered into, altered, modified, renewed or extended on or after January 1, 2004, was knowing, voluntary, and not made a condition of employment or continued employment.	Vetoed
AB 1759 Assembly Budget Committee	<u>Court Fees</u> Authorizes the increase of various court fees and provides for a termination date for these fees as of July 1, 2006. Also authorizes the Attorney General to recover reasonable attorney fees in charitable trust actions.	Enacted Chapter #159

AJR 35
Leno

Court Reporters and Realtime Writers

Enacted
Chapter #119

Urges Congress to pass the Training for Realtime Writers Act of 2003. Realtime writing is a simultaneous transcription of the spoken word displayed on a computer monitor or large projection screen.

States the support of the California Legislature to ask the California congressional delegation in Washington D.C. to support S 480 (Harkin, 2003) and HR 970 (Kind, 2003). These bills authorize federal funding to help meet the growing demands for captioning and communication access services. These services are used by senior citizens and persons who are deaf, hard-of-hearing and/or those learning English. The funding will be used for recruiting, marketing, curriculum development, skills-upgrades, scholarships, internships and distance learning for training in the most state-of-the-art techniques of realtime stenographic court reporting.

SB 58
Johnson

Police Reports: Confidentiality in Court Records

Two Year Bill

Would make police reports, arrest reports, or investigative reports that are part of a court record confidential and not open to public inspection. Would allow the public to file a motion for the release of these records, which the court could grant after redacting all personal identifying information about the victims and witnesses.

SB 79
Senate
Judiciary
Committee

Court Administration

Enacted
Chapter #149

Sponsored by the California Law Revision Commission (CLRC), this statute: 1) repeals or revises trial court sessions statutes; 2) repeals existing statutes pertaining to the coordination of operations of the municipal and superior courts in a county; 3) lodges grand jury selection functions with the jury commissioner; 4) permits superior court judges to adopt a local rule of court governing the procedures for the preparation, adoption, and annual revision of the countywide bail schedule; and 5) makes clear that the court's authority to appoint and terminate a subordinate judicial officer includes the authority to delegate appointment or termination decisions.

The Legislature directed the CLRC to recommend the repeal of statutes made obsolete by the Trial Court Employment Protection and Governance Act, the Lockyer-Isenberg Trial Court Funding Act of 1997 and the implementation of trial court unification.

SB 113
Ackerman

Mechanics' Liens

Enacted
Chapter #22

Sponsored by the California Law Revision Commission (CLRC), establishes a simplified process to enable a mechanics lien claimant to protect his or her arbitration rights when filing a lien foreclosure action. Allows the claimant, when filing an action to enforce a lien, to state an intention to file a motion to stay (stop) the lien action, rather than actually having to file and serve the motion to stay, in order to retain the right of arbitration of the issue.

SB 246
Escutia

Courts: Fines and Penalties: Collections

Would have required the Judicial Council to adopt guidelines for a comprehensive program for the collection of moneys imposed by court order. Would have required each superior court and county to develop a cooperative plan to implement those guidelines, and to report jointly and annually to the Judicial Council. Also would have permitted the Judicial Council to establish an amnesty program to waive the interest or collections costs on outstanding fines or assessments, upon a specified circumstance.

**Died in
Senate
Judiciary
Committee**

SB 455
Torlakson

Home Equity Sales Contracts

Authorizes a court to award up to \$2,500 in civil penalties to a homeowner who prevails against an equity purchaser for certain violations such as transferring property prior to the cooling off period, not following contract terms, fraud, or misleading or unconscionably taking advantage of a property owner. Increases the maximum criminal fine from \$10,000 to \$25,000 for such violations.

**Enacted
Chapter #74**

SB 515
Kuehl

Civil Actions

Makes the Strategic Lawsuit Against Public Participation motion (SLAPP) (special motion to strike a cause of action arising from any act of the defendant in furtherance of that person's right of petition or free speech) inapplicable to: 1) public interests and class action lawsuits when specified conditions are met; and 2) lawsuits brought against a business that arises from commercial statements or conduct of that business, as specified.

Also provides that if the trial court denies a SLAPP motion because of the new exemptions, the stay of discovery and the right to an immediate appeal provisions of the anti-SLAPP law do not apply. Makes legislative findings relating to the disturbing abuse of the anti-SLAPP law, and stating that continued participation in matters of public significance should not be chilled through abuse of the judicial process or the anti-SLAPP law.

**Enacted
Chapter #338**

SB 599
Perata

Drug Diversion: Sealed Records

Provides for the sealing of arrest records for any person who successfully completes a court-administered drug diversion program, except where such a record should be open for purposes of peace officer applications and future drug diversion programs.

**Enacted
Chapter #792**

SB 660
Speier

Public Court Records: Redaction of SSNs from Divorce Filings

Establishes a procedure for keeping an individual's Social Security number (SSN) confidential in court filings for legal separation, dissolution or nullification of marriage by creating a separate one-page document containing the parties' SSNs to be placed in the confidential portion of the court file. Requires the Judicial Council to develop the form to be used and requires the form to contain a notice informing parties of their right to redact SSNs from documents and materials filed with the court.

**Enacted
Chapter #154**

SB 752
Alpert

Criminal Identity Theft: Thumbprint Process to Clear Victims' Names

Enacted
Chapter #467

Provides relief to criminal identity theft victims and helps them clear their names by establishing a procedure where victims who claim under penalty of perjury not to be the person arrested can contest the charge by submitting their thumbprints to the court for comparison with the thumbprint of their imposter who was the person actually arrested. Ensures that the courts make a finding of factual innocence to clear the victim's name, as specified, and requires the courts to notify the Department of Motor Vehicles (DMV) of its determination. The DMV is then required to reverse any revocation or suspension of driving privileges that resulted from the false charges.

SB 940
Escutia

Courts: Fines and Penalties: Collection

Enacted
Chapter #275

Requires the Judicial Council to adopt guidelines for a comprehensive program for collection of fines, penalties and assessments imposed by the courts, and requires each superior court to develop a cooperative plan to implement those guidelines and annually report to the Judicial Council on the effectiveness of the collection program. Also authorizes the Judicial Council to suspend professional licenses and provide for an amnesty program involving collection of outstanding fines, penalty assessments, and civil assessments, applicable either statewide or within one or more counties. The amnesty program provides that some or all interest or collection costs may be waived if the remaining amounts due are paid within the amnesty period.

Originally, these provisions were in SB 246 (Escutia, 2003).

SB 1013
Ackerman

Civil Actions

Failed in
Senate
Judiciary
Committee

Would have repealed several provisions enacted last year by SB 688 (Burton, Chapter 448, Statutes of 2002) relating to extending the state of limitations for personal injury and wrongful death actions. Also, would have enacted legislative findings relative to the current economic downturn, the loss of manufacturing jobs, the current state operating and budget deficits, California's high costs of doing business, and that the increased costs of doing business in California are in large part the result of recently enacted onerous legislation.

SCA 1
Burton

Access to Government Information

Two Year Bill

Would propose to the people of the State of California that Article 1, Section 3 of the Constitution be amended to make access to records and public meetings of government officials and agencies a constitutional right of each citizen, as specified. If passed by a 2/3 majority vote in both houses, SCA 1 would be placed on a ballot for the voters' to decide if the California constitution should be amended to include these provisions.

(4) CREDIT & FINANCIAL SERVICES

AB 3
Calderon

Consumer Credit Reporting

Two Year Bill

Would require a consumer credit reporting agency to remove adverse information from a consumer's credit report no later than 30 days after a tax, judgment, or civil lien has been released. Also would require a lienholder that furnishes specified information to a consumer credit reporting agency to inform the consumer credit reporting agency within 30 days after the lien has been released or an incident resulting in adverse information has been resolved.

AB 73 Lowenthal	<u>Unsolicited Checks</u>	Two Year Bill
	Would prohibit a solicitation for an extension of credit by various financial entities through the use of an unsolicited check or other unsolicited negotiable instrument unless the company provides the consumer with a mechanism to choose not to receive unsolicited checks and unsolicited negotiable instruments. Specifically, this legislation would protect consumers from identity theft and ensuing liability when unsolicited checks are stolen by 1) ensuring the consumer knows when negotiable instruments are coming; and 2) making the financial institution liable for any loss through theft if negotiable instruments are sent unsolicited in violation of this bill.	
AB 182 Harman	<u>Exempt Property: Evaluation</u>	Enacted Chapter #379
	Sponsored by the California Law Revision Commission (CLRC), creates a mechanism for automatic adjustment for inflation of the amounts of personal property exempt from enforcement in bankruptcy proceedings or proceedings to enforce a money judgement. A money judgement is a final order, decree or judgement of a court where a defendant is required to pay a sum of money; e.g., the defendant is in debt for \$10,000 and cannot pay his creditor(s), who take the defendant to court. Increases the statutory value of various forms of real and personal property that are exempt under money judgements.	
	Under California Code of Civil Procedure §703.120(a), the CLRC is charged with the responsibility to review the dollar amount of debtors' exemptions under the Enforcement of Judgements Law every ten years and recommend any changes in the amounts "that appear proper."	
AB 800 Kehoe	<u>Consumer Credit Reporting Agencies: Inaccurate Information</u>	Two Year Bill
	Would require furnishers of credit information to investigate and correct any inaccurate information within 30 days of receiving notice of a dispute. Would also prohibit such a person from knowingly furnishing false information to a consumer credit reporting agency.	
AB 1136 Maddox	<u>Release of Wage Information to Credit Reporting Agencies</u>	Died in Assembly Insurance Committee
	Would have authorized the Employment Development Department, under specified circumstances, to disclose wage information to consumer credit reporting agencies for the purpose of verifying information provided by a consumer in connection with a specific credit or employment transaction.	
AB 1294 Wiggins	<u>Identity Theft: Debt Collectors</u>	Enacted Chapter #287
	Requires a debt collector to stop collecting a consumer debt if an alleged debtor is a victim of identity theft and provides a police report and written statement establishing the identity theft. Allows the debt collector to recommence collection activities if it makes a good faith determination that the information provided by the alleged debtor does not establish that s/he is not responsible for the debt.	

AB 1399 Longville	<u>Investigative Consumer Reporting Agencies: Penalties</u> Deletes the existing \$25,000 minimum penalty and instead makes an investigative consumer reporting agency (ICRA) subject to general liability provisions applicable for other violations of the Act for an ICRA that fails to maintain certain records or maintain reasonable procedures to avoid specified violations of the Act. For such violations, AB 1399 makes an ICRA liable to the consumer for actual damages or \$10,000, whichever is greater, as well as the costs of the action, reasonable attorney's fees, and, in certain cases, punitive damages.	Enacted Chapter #146
AB 1610 Pavley	<u>Consumer Credit Reports: Verification of Inconsistent Information</u> Requires credit grantors to take reasonable steps to verify the accuracy of a consumer's first and last name and Social Security number (in addition to their address) when the creditor discovers that the information on the credit application does not match the corresponding information in the consumer's credit report.	Enacted Chapter #41
AB 1664 Montanez	<u>Bank Customer Bill of Rights Act</u> Would prohibit banks from selling private credit information about a consumer to a marketing business without the consumer's consent, charging consumers for using the bank's automated teller machine an overdraft penalty that is \$30 or more without providing a prior notice, issuing a credit card that has an interest rate that is greater than two percent above the prime rate, and charging a customer with a higher than average interest rate on a loan if the customer qualifies for a lower interest rate and the bank has not made the customer aware of that fact.	Two Year Bill
AB 1773 Committee on Banking and Finance	<u>Identity Theft: Search Warrants</u> Assists law enforcement in investigating identity theft cases by permitting a magistrate in the county where an identity theft victim resides to issue a search warrant for persons or property located in another county when the items to be seized are related to the crime of identity theft.	Enacted Chapter #137
SB 1 Speier	<u>The California Financial Information Privacy Act</u> Gives consumers more control over how their personal information is used by financial institutions by requiring financial institutions to send annual notices to consumers informing them of their privacy choices and prohibiting financial institutions from sharing consumers' personal information without the appropriate consent. Requires financial institutions to obtain consent (<i>opt-in</i>) from consumers before sharing nonpublic personal information with nonaffiliated third parties, and permits financial institutions to share information with affiliates and third parties for joint marketing agreements if the consumer does not <i>opt-out</i> of such information sharing. Financial institutions may share consumer's information without consumer consent with wholly-owned affiliates that share the same brand name and line of business, as specified.	Enacted Chapter #241

SB 25 Bowen	<u>Identity Theft: SSN Use by State Agencies & Security Alert Verification</u> Enhances identity theft protections by: 1) requiring state and local agencies, as of January 2004, to comply with the restrictions on the use and public display of SSNs that currently apply to the private sector, with extended implementation dates for specified state agencies; and, 2) requiring creditors to take reasonable steps to verify a consumer's identity before extending credit when the consumer's credit report contains a security alert, and further requires them to contact the consumer at the telephone number s/he specified in the security alert.	Enacted Chapter #907
SB 505 Perata	<u>Payments: Postmarks</u> Would enact the Postmark Payment Act that says any payment sent by mail shall be deemed received by the payee on the date of the United States post mark stamped on the envelope or other cover in which the payment is mailed. Would not pertain to payments subject to another California or federal law that specifies how the date of a postmark is to be used, or a payment required to be delivered by a method other than United States mail.	Two Year Bill
SB 508 Escutia	<u>Automobile Sales Financing</u> Requires automobile dealers to maintain for at least seven years, or the length of the conditional sales contract, whichever is longer, copies of their conditional sales contracts, documents relied upon to determine a buyer's creditworthiness, and the terms of any subsequent sale, assignment, or transfer of a contract. Provides that if a dealer fails to comply with a court order to produce those documents, the dealer would be liable in an action brought by the Attorney General for a civil penalty of \$5,000.	Enacted Chapter #59
SB 691 Escutia	<u>Credit History: Homeowner's Insurance</u> Would prohibit an insurer from using, in whole or in part, credit ratings, credit reports, credit scoring models, or other related credit or financial information to underwrite, rate, or determine placement in a particular payment plan for homeowner's insurance policies.	Two Year Bill
SB 766 Florez	<u>Securities Violations: Remedies</u> Would have expanded the circumstances under which officers and directors can be sued for allegations of securities fraud. Would reverse various recent court decisions relating to security violations.	Died in Senate
SB 1022 Perata	<u>Debt Collectors</u> Requires third party debt collectors, when attempting to collect debts, to include in the first written correspondence a disclosure that sets forth the consumer's rights, as specified under the federal Fair Debt Collection Practices Act. A third party debt collector that fails to furnish that notice would be liable for damages and a penalty as specified. Also requires that the notice be sent in the language used to initially contact the debtor, if a language other than English is being used.	Enacted Chapter #259

(5) HEALTH & SAFETY

AB 24 Negrete McLeod	<u>Real Property Hazards: Notice</u> Allows for the creation and distribution of a brochure containing information regarding swimming pool and spa safety; also extends the sunset on the requirement that owners of real property disclose knowledge of the presence of an illegal controlled substance on the property.	Enacted Chapter #422
AB 302 Chan	<u>Polybrominated Diphenyl Ether (PBDE)</u> Prohibits, on and after January 1, 2008, a person from manufacturing, processing, or distributing in commerce a product, or a flame-retarded part of a product, containing more than 1/10 of 1% pentaBDE or octaBDE, by mass. Manufacturers of items from furniture to electronics commonly add flame retardant chemicals called PBDEs to reduce the risk of catastrophic fires. Use of these chemicals has produced several unintended consequences. PBDEs have spread across the world and are steadily accumulating in the tissues of animals and human beings. Scientists have found that these chemicals can disrupt the process of development in fetuses and infant children. The most serious health effects are likely to be impaired learning, memory, and motor skills caused by exposure during critical windows of brain development in children.	Enacted Chapter #205
AB 371 La Suer	<u>Blood Tests</u> Would allow a certified phlebotomy technician (CPT) to withdraw blood in specified locations, with general supervision, at the direction and in the presence of a peace officer, as specified. Would require that a CPT carry a card issued by the Department of Health Services while performing blood withdrawals.	Two Year Bill
AB 445 Vargas	<u>Social Workers</u> Would prohibit, as of January 1, 2007, except under certain specified conditions, anyone other than an individual who possesses a degree from a school of social work or from an institution that is in candidacy status, as determined by the Council on Social Work Education, or from a foreign school of social work, from representing himself or herself as a "social worker".	Two Year Bill
AB 1087 Frommer	<u>Venipuncture</u> Would have allowed a specified health care technician to perform venipuncture (the drawing of blood) or skin puncture for specified purposes, provided the technician was under the general supervision of a specified healthcare provider.	Died in Assembly Concurrence
SB 598 Machado	<u>Confidentiality of Medical Information: Psychotherapy</u> Would have exempted disclosures made for purposes of diagnosis or treatment from procedures established in current law that specify how a health care provider may disclose information relating to a patient's participation in outpatient treatment with a psychotherapist.	Died in Assembly Judiciary Committee

(6) HEALTH CARE/HEALTH MAINTENANCE ORGANIZATIONS /MANAGED CARE

AB 154	<u>Health and Managed Care Plans: Culturally and Linguistically Appropriate Services</u>	Two Year Bill
	Would require health plans or managed care plans to submit an annual report to the Department of Health Services (DHS) and the Department of Managed Health Care (DMHC) regarding the cultural and linguistic services provided to its limited English proficient applicants, subscribers or beneficiaries. DHS and DMHC would be required to submit an annual report to the Legislature regarding the reports submitted by the contracting plans relative to their compliance in providing cultural and linguistic services.	
AB 262 Chan	<u>Personal Information</u>	Two Year Bill
	Would prohibit marketing, as defined, of personal health information for any purpose not necessary to provide health care services to the patient without consent or authorization by the individual whose personal health information is being disclosed.	
AB 715 Chan	<u>Personal Information</u>	Enacted Chapter #562
	Prohibits the marketing of individually identifiable medical information for any purpose not necessary to provide health care services to the patient, except to the extent expressly authorized by the patient or as otherwise authorized by law, as specified. This bill also provides certain exemptions from the definition of marketing, and increases the minimum type size from 8-point to 14-point type for patient authorizations for the release of medical information.	
AB 820 Nakanishi	<u>National Health Service Corps State Loan Repayment Program</u>	Enacted Chapter #682
	Requires the Office of Statewide Health Planning and Development to strive, whenever feasible, to equitably distribute loan repayment awards issued through the National Health Service Corps Loan Repayment Program between urban and rural program sites.	
SB 252 Alpert	<u>Medical Assistants</u>	Enacted Chapter #234
	Clarifies a provision governing medical assistants contained in last session's SB 111 (Alpert, Chapter 358, Statutes of 2001) which allowed medical assistants to be supervised in licensed clinics by mid-level healthcare personnel without a physician present. Also specifies that it does not authorize a medical assistant to perform a clinical laboratory test or examination and does not authorize a nurse practitioner, nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory.	
SB 583 Committee on Insurance	<u>Personal Medical Information</u>	Two Year Bill
	Would make certain legislative findings and declarations relative to the right of individuals to privacy of personal medical information and to access of their own personal medical information relative to the federal Health Insurance Portability and Accountability Act of 1996.	

**SB 648
Battin**

Assistive Devices

Two Year Bill

Would permit the seller of an assistive device to charge the buyer a nominal fee for any readjustment of that device during the warranty period. Also would require the written warranty that accompanies the sale of an assistive device to inform the buyer that a nominal fee may be charged for readjustments during the warranty period.

**SB 853
Escutia**

Health Care Language Assistance

**Enacted
Chapter #713**

Requires the Department of Managed Health Care to adopt and establish standards and requirements to provide health care service plan enrollees with access to language assistance in obtaining health care services by January 1, 2006.

**SB 907
Burton**

Bureau of Naturopathic Medicine.

**Enacted
Chapter #485**

Creates the Bureau of Naturopathic Medicine within the Department of Consumer Affairs. Establishes a new licensure category of naturopathic doctor, defines a scope of practice, and establishes standards for licensure and regulation by the bureau. Requires the department to certify that sufficient funds are available in the Naturopathic Doctor's Fund prior to implementation.

(7) INSURANCE

AB 81

Insurance: Underwriting: Information

**Two Year
Bill**

Would prohibit insurers from making adverse underwriting decisions based upon coverage inquiries that did not result in claims.

**AB 213
Leslie**

Vehicles: Manufacturers: Disclosure

**Enacted
Chapter #427**

Restricts the use of data from recording devices installed in motor vehicles manufactured on or after July 1, 2004. Defines a "recording device" as a device installed by the manufacturer of a vehicle which does one or more of the following, for the purpose of retrieving data after an accident: 1) records how fast and in which direction the motor vehicle is travelling, 2) records a history of where the motor vehicle travels, 3) records steering performance, 4) records brake performance, (5) records the driver's seatbelt status, or 6) has the ability to transmit information concerning an accident to a central communications system at the moment the accident occurs. Provides that data recorded by a recording device is the sole property of the registered owner of the vehicle and may not be retrieved by any other person, except under specified circumstances. Requires that the presence of a recording device be disclosed in the vehicle owner's manual. Provides that recording devices which record where a vehicle travels or can transmit contemporaneous accident data that are part of a subscription service are not subject to the bill's restrictions on use of information. Requires that the presence of such devices be disclosed in the subscription service agreement.

AB 412

Insurance: Consumer Protection: Senior Citizens

Two Year Bill

Would require the Insurance Commissioner to convene a task force and ongoing working group to address harmful effects resulting from marketing, delivering and administering insurance products to senior citizens in this state.

AB 752
Plescia

Construction Defects: Additional Insureds

Would have provided that any endorsement issued by an admitted insurer or non-admitted insurer and governed by the Insurance Code that names an individual or entity as an additional insured under any insurance policy that is collateral to, or affects, any residential construction contract governed by the legal requirements for actions for construction defects, as specified, would only provide the additionally-named insured individual or entity with a defense for those claims arising from or related to, the named insured's activities. Also would have provided that any endorsement or interpretation of an endorsement that purports to grant a greater duty to defend the additionally-named insured shall be void and unenforceable as a matter of public policy.

**Died in
Assembly
Insurance
Committee**

AB 984
Vargas

Service Contracts: Automobile Insurance

Establishes a regulatory framework for the California Department of Insurance to oversee the motor vehicle service-contract industry. Protects consumers by providing for improved solvency protection on motor vehicle service contracts by requiring that service contracts be backed by highly rated insurers, and making insurers liable for the contracts they insure whether they received the premium or not.

**Enacted
Chapter #439**

AB 1227
McCarthy

Insurance Fraud: Theft: Bureau of Automotive Repair

Would specifically list the Bureau of Automotive Repair, for the purpose of investigating auto repair or auto insurance fraud, among the agencies authorized to request and receive motor vehicle theft or motor vehicle insurance fraud information from insurers. Would provide that the bill is declarative of existing law.

Two Year Bill

SB 64
Speier

Homeowners' Insurance

Would prohibit an insurer from using a consumer's credit information to underwrite, classify or rate certain property insurance policies. Also would prohibit an insurer from refusing to issue policies and not renewing or canceling those policies based upon credit grounds. A willful violation of this provision would be a crime.

Two Year Bill

SB 551
Speier

Insurance: Automotive Repair Dealers

Codifies existing regulations that prohibit insurers from "steering" claimants to a specific automobile repair shop, and requires additional disclosures by insurers relating to the rights of the insured to have their car repaired at a shop of their choosing.

**Enacted
Chapter #791**

SB 691
Escutia

Credit History: Homeowner's Insurance

Would prohibit an insurer from using, in whole or in part, credit ratings, credit reports, credit scoring models, or other related credit or financial information to underwrite, rate, or determine placement in a particular payment plan for homeowner's insurance policies.

Two Year Bill

(8) INTERNET/ e-COMMERCE/ e-GOVERNMENT

AB 68
Simitian

Online Privacy Protection Act of 2003

Enacted
Chapter #829

Enacts the Online Privacy Protection Act of 2003, effective July 1, 2004, that requires an operator of a commercial website or online service that collects personally identifiable information (PII) through the Internet about California consumers to conspicuously post and comply with its privacy policy. The privacy policy must identify the categories of PII collected, the categories of third-party entities with whom it is shared, and if individuals may review and request changes to their PII. An operator violates this statute if it knowingly and willfully, or negligently and materially, fails to comply with its privacy policy. An operator is allowed 30 days from being notified of its noncompliance to post its privacy policy.

AB 567
Simitian

Unsolicited Electronic Mail Advertisements

Two Year Bill

Would modify existing law to authorize the recipient of an unsolicited electronic mail advertisement to bring an action against the sender to recover actual damages or \$1,000, whichever is greater, for each violation. Also would establish that an electronic mail service provider whose policy on unsolicited electronic mail advertisements is violated may bring civil action to recover the actual monetary loss in the amount of \$100 for each electronic mail initiated or received, up to a maximum of \$50,000 per day, whichever amount is greater.

AB 1143
Simitian

Civil Procedure: Internet Communications

Two Year Bill

Would add internet service providers to the statutory list of witnesses who have and maintain personal records of a consumer that may be subject to a subpoena duces tecum for the providing of a consumer's personal records in connection with a civil action or proceeding. A subpoena duces tecum is defined as a process by which the court, at the request of a party, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial.

SB 12
Bowen

Electronic Mail Advertising

Died in
Senate
Business and
Professions
Committee

Would have deleted existing law that provides the recipients of unsolicited electronic mail advertisements with the ability to contact the sender in order to remove the recipient's address from the sender's mailing list and, instead, prohibited the sending of unsolicited e-mail ads from California or to a California e-mail address. Would have authorized recipients or electronic mail service providers to bring an action to recover either actual damages or \$500 for each individual violation, whichever is greater, up to a maximum of \$200,000 per day, and allowed the recovery of reasonable costs and attorney's fees. Would have specified that if the court finds that an unsolicited commercial e-mail violation was willfully or knowingly committed, the court may increase the award to an amount equal to not more than three times the amount otherwise allowed.

SB 186
Murray

Privacy: Unsolicited Commercial e-Mail Advertising

Enacted
Chapter #487

Prohibits sending unsolicited electronic mail, with certain exemptions for existing business relationships, and creates stronger penalties and legal recourse for consumers who receive unsolicited electronic mail. Allows for penalties to be served on the advertisers themselves as opposed to the senders, resulting in increased deterrence.

SB 199 Murray	<u>Internet Piracy</u>	Two Year Bill
	Would state the intent of the Legislature to enact legislation relating to Internet piracy.	
SB 342 Florez	<u>Unsolicited e-Mail Advertisements</u>	Two Year Bill
	Would prohibit a person from sending an unsolicited e-mail advertisement unless it also includes the sender's identity, postal address, and e-mail address or telephone number along with a toll-free telephone number or valid return address already required under existing law that the recipient can contact to notify the sender not to e-mail any further unsolicited documents to the e-mail address or addresses specified by the recipient.	

(9) MISCELLANEOUS CONSUMER ISSUES

AB 95 Corbett	<u>Unfair Competition: Private Actions</u>	Two Year Bill
	Would provide that, at the time of service of a complaint or demand letter in any private action brought in the public interest to enforce the Unfair Competition Law (UCL), the plaintiff shall serve the defendant with a notice of the defendant's rights in UCL actions, including a right to court review of any settlement or other pre-trial disposition of the action. Also would clarify that defendants cannot be joined in a UCL action just because they are engaged in the same or similar types of businesses and are alleged to have violated the same or similar laws. This bill is double-jointed to SB 122.	
AB 102 Pacheco	<u>Unfair Competition: Limitations</u>	Failed in Assembly Judiciary Committee
	Would have imposed additional limitations on consumers bringing an action under California's Unfair Competition Law including, among other things, that a plaintiff have suffered distinct and palpable injury, and have served a notice of intent to sue on the defendant 90 days prior to bringing the action. This would preclude any action by a plaintiff if a public prosecutor or another consumer has brought an action against the same defendant.	
AB 104 Lowenthal	<u>Common Interest Developments: Account Books</u>	Enacted Chapter #375
	Requires an association to make the accounting books, records and minutes of proceedings of the association available for inspection and copying by a member of the association, or the member's designated representative, as specified. Permits the association to satisfy these requirements by providing copies of the requested records by mail, and permits the association to withhold or redact information from the accounting books, records, and minutes of proceedings when the release of the information is reasonably likely to lead to identity theft, fraud in connection with the association, or is privileged by law, with specified exceptions regarding compensation of employees, vendors, and contractors. Prohibits the sale or commercial use of the association's accounting books, records and minutes of proceedings and permits the member to bring an action to enforce the right to inspect and copy from the accounting books and records and the minutes of proceedings. Requires a court to award the member reasonable costs and expenses, as specified, if it finds that the association unreasonably withheld access to the books and records and the minutes of proceedings and also permits the court to assess a civil penalty of up to \$500 for each violation.	

AB 209 Leslie	<u>Disabled Persons: Liability</u>	Two Year Bill
	Would establish notice requirements for a plaintiff to follow before bringing an action against a business for an alleged violation of the Americans with Disabilities Act of 1990 (ADA). Would require the plaintiff to provide notice to a business at least 60 days before filing the complaint, and would limit damages to \$2,000 per violation in certain cases in which a plaintiff failed to comply with those notice provisions. Also would preclude commencement of an action against a small business for an ADA violation if the small business had made a good faith effort to comply with the ADA and other specified conditions were met.	
AB 210 Nation	<u>Tobacco: Dwellings</u>	Died in Assembly Housing & Community Development Committee
	Would have provided that the drifting, wafting, or blowing of tobacco smoke into the interest of any other person in a common interest development is a nuisance, with specified exceptions. Also would have prohibited the smoking of any tobacco-related product within any common area in a common interest development. Would have permitted specified persons or entities to assess additional fines or penalties for a violation of these provisions.	
AB 292 Yee	<u>Interpreters: Prohibition on Use of Children</u>	Two Year Bill
	Would prevent state-funded agencies or programs from using children as interpreters or translators. Further, violations of the law may result in the loss of state funding or cancellation of state contracts until the agency has adopted a formal policy statement or terminated the use of children as interpreters or translators.	
AB 320 Correa	<u>Professions and Vocations: Licensees: Settlement Agreements</u>	Two Year Bill
	Would prohibit a licensee of a profession or vocation regulated by the Department of Consumer Affairs from including a provision in an agreement to settle a civil dispute that prohibited the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program or that required the other party to withdraw a complaint from the department, board, bureau, or program.	
AB 512 Bates	<u>Common Interest Developments</u>	Enacted Chapter #557
	Establishes a process by which common interest development associations may adopt and change their operating rules, while giving notice and an opportunity to comment to association members. Also adds chapter and article headings to its provisions, specifying that these headings do not change the scope, meaning, or intent of the statute.	
AB 534 Vargas	<u>Immigration Consultants: Client Protection</u>	Enacted Chapter #384
	Revises the Immigration Consultant Act to protect clients against fraud and other improper business practices. Increases the client notification and contracting requirements for immigration consultants.	

AB 599 Dutton	<u>Unfair Competition: Private Enforcement</u> Would have imposed various requirements with respect to an unfair competition action that is brought by a person other than the Attorney General, a district attorney, a county counsel, or a city attorney. Would have required the person to have a good faith belief that each defendant had engaged in the alleged misconduct. Court approval would have been required prior to dismissal or compromise of an action brought by a private person on behalf of the general public. Would have barred any further similar representative actions against the same defendant based upon like facts and liability theories.	Died in Assembly Judiciary Committee
AB 647 Nunez	<u>Tenancy: Code Violations: Penalties</u> Provides tenants with additional recourse when an unscrupulous landlord does not abate a nuisance or repair a substandard condition after being notified of the need to do so by a housing code enforcement officer. Also adds provisions that strengthen a tenant's ability to initiate and defend lawsuits based on serious cited code violations.	Enacted Chapter #109
AB 754 Bogh	<u>Unfair Competition: Definition</u> Would revise the definition of unfair competition to instead require a practice, rather than an act, of the specified misconduct. Also would define the term "practice" for these purposes.	Two Year Bill
AB 805 Diaz	<u>Mobilehomes: Termination of Tenancies</u> Requires mobile home park owners to provide park residents with a written notice that failure to make timely rent payments three times or more in a year can result in a termination of tenancy without a grace period or further notice. Specifically, requires that the three day eviction notices provide the aforementioned information for the benefit of homeowners being served with the notice.	Enacted Chapter #85
AB 827 Committee on Business and Professions	<u>Board Membership Qualifications: Public Members</u> Deletes the requirement that boards at the Department of Consumer Affairs have a "public" member who has expertise in the regulatory activities of the boards, and prohibits a public member from providing representation, either presently or in the five years prior to his or her appointment, to the industry or profession regulated by the board.	Enacted Chapter #563
AB 830 Oropeza	<u>Service Stations: Restrooms</u> Would require every service station in the state, regardless of location, to provide public restrooms for its customers.	Two Year Bill
AB 831 Goldberg	<u>Unlawful Detainer</u> Would clarify existing law for the 5-day period a tenant must vacate the premises or oppose a writ of possession of real property prior to an eviction by extending the time period for tenants to vacate a property due to an eviction notice. This provision would specify that Saturdays, Sundays, and judicial holidays are excluded.	Two Year Bill

AB 873 Richman	<u>Regulations: Impact on Business</u> Would have required a state agency, for purposes of evaluating a regulatory proposal's impact on business, to solicit comment from individuals and organizations with an expertise in economics in the appropriate policy being considered by the agency.	Died in Assembly Business & Professions Committee
AB 973 Yee	<u>Interpretation Services</u> Would require the Department of Consumer Affairs to create a web site that provides interested parties with resources and related information pertaining to language interpretation services that are provided in the State. The data would be available on the Department's web site.	Two Year Bill
AB 1059 Lieber	<u>Landlord and Tenant: Menacing and Retaliatory Acts</u> Contains various provisions that seek to assist tenants who have been the subject of a retaliatory eviction by increasing punitive damages that may be awarded to a tenant from \$1,000 to \$2,000, and making it unlawful for a landlord to threaten or use menacing conduct interfering with a tenant's quiet enjoyment of the premises.	Enacted Chapter #542
AB 1077 Wesson	<u>Complaints Against Peace Officers</u> Would require that the procedures for citizens complaints against specified peace officers include, but not be limited to, a method for filing a complaint by either United States mail, electronic mail, telephone, or facsimile machine, and a method for filing a complaint at a designated public location that is not a law enforcement location. The public locations would include, but not be limited to, libraries, mayors' offices, city clerks' offices and civilian police review boards or police accountability offices, as specified.	Two Year Bill
AB 1086 Laird	<u>Common Interest Developments: Transfer of Title</u> Prohibits a community service organization or similar entity, from imposing or collecting any assessment, penalty, or fee in connection with a transfer of title, except as specified. States that a community association manager is an agent of the association, and states that the statute does not expand or diminish the authority of an association or its agent to charge a reasonable fee for services in connection with providing information and documentation, as specified.	Enacted Chapter #393
AB 1179 Parra	<u>Public Records</u> Would provide that a certified copy of a veteran's records would be made available only to the person who is the subject of the record upon presentation of proper photo identification, to a family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record, or to a county office that provides veteran's benefits services or a United States official upon written request.	Two Year Bill
AB 1202 Montanez	<u>Tenancy: Security Deposits</u> Would permit a bond or commercial insurance policy purchased by a tenant to secure the performance of the terms and conditions of a rental agreement to be characterized as nonrefundable. Would provide few procedural safeguards for the tenant.	Two Year Bill

AB 1209 Nakano	<u>Public Agency Security: Confidential Information</u>	Two Year Bill
	Would apply the exemption from disclosure under the Public Records Act to a document prepared by or for a state or local agency that assessed its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and would also exempt customer lists provided to a state or local police agency by an alarm or security company at the request of the agency.	
AB 1361 McCarthy	<u>Nonresidential Tenancies: Security Deposits</u>	Enacted Chapter #89
	Allows commercial property landlords to retain a tenant's security deposit equal to one month's rent for up to 30 days after the landlord recovers possession of the premises to remedy any defaults in rent, including the collection of common area maintenance charges. Specifically, extends the time in which a commercial landlord must return the unused portion of a security deposit if the landlord retains a portion of the deposit for nonpayment of rent from two weeks to 30 days.	
AB 1384 Maddox	<u>Tenancy: Inspections</u>	Enacted Chapter #576
	Provides that a tenant whose residential tenancy terminates pursuant to a three-day notice is not entitled to an initial inspection prior to the termination of tenancy.	
AB 1423 Dutra	<u>Common Interest Development Managers</u>	Enacted Chapter #147
	Revises the disclosure related to a common interest development manager's certification and education.	
AB 1447 Matthews	<u>Proposition 65: Enforcement</u>	Two Year Bill
	Would authorize the Attorney General's office to extend, by an additional 60 days, the time period before a private action may be commenced to enforce a Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986).	
	Specifically, would authorize: 1) the Attorney General (AG) to extend, for an additional 60 days, the time public prosecutors have to review a private plaintiff's 60- day notice of intent to enforce under Proposition 65; the AG can automatically invoke this extension by serving notice of the extension on the private plaintiff and on the local government entities that were listed in the original 60 day notice; and 2) the AG to obtain this extension on behalf of local prosecutors (including district attorneys, city attorneys) in the jurisdiction where the violation is alleged to have occurred.	
AB 1452 Hancock	<u>Telecommunications: Predictive Dialers</u>	Died in Assembly Utilities & Communication: Committee
	Would have required that the error rate established by the commission for predictive dialers not exceed 1% and that any call generated by a predictive dialer that terminated the call prior to a period of time determined by the commission to be the amount of time ordinarily required to answer a telephone call, was an abandoned call.	

AB 1491 McLeod, Negrete	<u>Career Technical Education: Public/Private Partnerships</u> Would have stated the intent of the Legislature to provide for a private/public partnership program for the betterment of career technical education and would make legislative findings and declarations in that regard.	Died in Assembly Rules
AB 1525 Longville	<u>Common Interest Developments: Signs</u> Provides that the governing documents of a common interest development may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners, as defined, on or in an owner's separate interest, except for the protection of public health or safety or if the posting or display would violate a local, state, or federal law. The statute permits a common interest development association to prohibit signs, posters, flags, or banners that exceed specified sizes, and makes a statement of legislative intent in this regard.	Enacted Chapter #774
AB 1678 McLeod, Negrete	<u>Political Reform Act of 1974: Conflicts of Interest</u> Extends to local public officials the prohibition on making, or using one's official position to influence, any governmental decision directly relating to any person with whom the public official is negotiating prospective employment.	Enacted Chapter #778
AB 1706 Committee on Judiciary	<u>Unlawful Detainer</u> Would make technical, nonsubstantive changes to provisions governing unlawful detainers for a tenant in possession of real property or a manufactured home, mobilehome, or a floating home.	Two Year Bill
AB 1732 Committee on Housing and Community Developmen t	<u>Buildings and Housing</u> Would have revised the Davis-Stirling Common Interest Development Act to add chapter and article headings to its provisions. Also would have provided that these headings would not change the scope, meaning, or intent of the act.	Died in Assembly Housing & Community Development
SB 31 Figueroa	<u>Home Inspectors</u> Would create title protection for the term "certified home inspector," similar to what currently exists for "certified interior designers." Also would require specific disclosure statements that all home inspectors would have to provide to prospective clients. The disclosures are similar to those currently required and used by home improvement contractors and swimming pool contractors. Would add to the list of activities that constitute unfair business practices for home inspectors. (This bill is a reintroduction of SB 1332 (Figueroa) of 2002.) A "certified home inspector," under this bill, would have to demonstrate that he or she has specified education and experience qualifications to conduct a home inspection. In addition, the inspector must pass a knowledge, skills and aptitude examination endorsed by a home inspection professional association.	Two Year Bill
SB 53 Dunn	<u>Public Employees' Retirement: Benefit Limits</u> Would have increased the benefit limit for local safety members, highway patrol, state peace officer/firefighter members and related supervisory, managerial and confidential members from 90% to 100% on or after January 1, 2004.	Died in Senate

SB 74 Torlakson	<u>State Property: Vending Machines</u>	Two Year Bill
	Would require each vendor that operates or maintains a vending machine on designated state property to satisfy the requirement that at least 50% of the food and beverages offered in the vending machine met accepted nutritional guidelines, as defined.	
SB 90 Torlakson	<u>Tenancy: Security Deposits</u>	Enacted Chapter #335
	Requires a landlord, when providing a tenant who has vacated the premises with the required itemized statement indicating the disposition of the security deposit and any refund due the tenant, to include a receipt for any labor or material the landlord has paid for and has deducted from the security deposit. Also specifies how the landlord could satisfy his or her responsibility to furnish the aforementioned information within the required 21 days after the tenant has vacated the premises, which ensures the tenant has the information and refund in hand within 21 days.	
SB 122 Escutia	<u>Unfair Competition: Court Review</u>	Died in Assembly Appropriations Committee
	Would have authorized, subject to specified exceptions, a party to request court review and approval of a settlement or compromise of an unfair competition action brought or proposed to be brought by a private party on behalf of the general public. Would have required that the plaintiff in those actions serve a specified notice on each defendant in the action and submit a copy of the complaint to the State Bar of California.	
	Would have specified set-off requirements applicable to unfair competition actions and make its provisions contingent upon AB 95 (Corbett) being enacted and becoming effective on or before January 1, 2004. SB 122 is double-jointed to AB 95 (Corbett, 2003).	
SB 128 Bowen	<u>Cellular Telecommunications Service</u>	Two Year Bill
	Would require providers of cellular telephone service to extend a minimum 30-day grace period to new customers during which the customer could rescind the agreement.	
SB 136 Figueroa	<u>Contracts</u>	Two Year Bill
	Would provide consumers with increased disclosure for certain contracts by 1) requiring a service contract seller who provides a guarantee or warranty in conjunction with a service contract to disclose the nature and extent of the guarantee or warranty and give a clear explanation of the guarantee or warranty coverage; 2) requiring a licensed real estate broker who is acting as an agent for a buyer to explain all the restrictions, exclusions, and limitations in a home protection contract, when such a contract is offered as part of a residential real property transaction; and 3) requiring home protection contracts to set forth the services that may not be performed due to improper previous repairs, improper installation, design deficiency, or preexisting conditions, and any restrictions on the companies that may be used for the performance of services.	

SB 345 Kuehl	<u>Tenancy</u> Provides tenants with several new protections which seek to ensure that tenants who have prevailed in an eviction action are protected from any potential unfair denial of housing by sealing the court records of these actions. Contains other provisions addressing unfair tenant blacklisting and notice requirements prior to entry. Additionally, requires public housing authorities to include in their annual report to the Department of Housing and Community Development data on termination of tenancies of victims of domestic violence.	Enacted Chapter #787
SB 434 Escutia	<u>State Departments: Investigations and Hearings</u> Authorizes the Attorney General to bring an action or conduct an investigation when it appears any person has violated or is about to violate the Corporate Securities Law of 1968 and the California Commodity Law of 1990. Also authorizes the Attorney General to bring a civil action in superior court to recover a civil fine imposed against a person for violation of these laws.	Enacted Chapter #876
SB 544 Chesbro	<u>Veterans: Recorded Documents</u> Requires, if any military veteran requests the recordation of any military discharge document, including a veteran's service form DD214, that the county recorder shall require the veteran to sign a form that acknowledges that the document becomes part of the official record of the county, and subject to inspection, as provided. Mandates that no copy of a recorded military discharge document may be issued except as provided by a specified provision of law proposed by that statute.	Enacted Chapter #301
SB 589 Committee on Rules	<u>Public Officers: Appointments</u> Would have provided, with respect to such an office in state government that is designated as an agency or department secretary, deputy secretary, director, or deputy director, that the Governor, prior to making an appointment, may fill the vacancy by granting a commission not subject to Senate confirmation for a term not to exceed six months, or until the office is filled by the prescribed procedure, whichever occurs first. Would have required the Governor to submit the name of the person commissioned to the Senate or the Secretary of the Senate. Would have provided that this procedure could be used only once for any given office to fill a vacancy pending an appointment by the Governor that was subject to Senate confirmation.	Vetoed
SB 663 Speier	<u>Taxation: Property Tax Delinquency and Sales</u> Would, if the home is subject to a homeowner's exemption and the first attempt to contact the owner-occupant is unsuccessful, require the tax collector to make an additional attempt to contact the owner-occupant in person or by telephone no less than 10 days prior to the date of sale. Would require the tax collector to remove the property from the sale if contact had not been made after this additional attempt, and prohibits the property from being offered for sale until personal contact is made, the homeowner's exemption was removed, or a period of 4 years had elapsed since the removal of the property from sale, during which time the tax collector or the tax collector's agent has made at least 2 additional unsuccessful attempts at personal contact. Also would increase the maximum amount of tax collector costs to \$200.	Two Year Bill

SB 723 Knight	<u>Unfair Competition</u> Would have declared the intent of the Legislature to reform the unfair competition laws.	Died in Senate Rules Committee
SB 755 Torlakson	<u>Permanent Amusement Rides</u> Would have required that an operator or ride attendant be at least 18 years of age and would have required an owner to adopt and post a policy prohibiting the operation of a permanent amusement ride while intoxicated.	Withdrawn by Author
SB 804 Machado	<u>Homesteads: Exemptions</u> Increases the amount of the homestead exemption for seniors and disabled persons from \$125,000 to \$150,000.	Enacted Chapter #64
SB 889 Johnson	<u>Unfair Competition: Private Actions</u> Would have prohibited private actions under the Unfair Competition Law against businesses having fewer than 50 employees, unless the private plaintiff was individually harmed by the allegedly unfair act or practice.	Failed in Senate Judiciary Committee
SB 890 Johnson	<u>Unfair Competition</u> Would have required that, in any representative UCL action brought by a plaintiff that has not suffered a distinct and palpable injury from the alleged unlawful act, 85 percent of the judgment or settlement be deposited in the State Restitution Fund for allocation to crime victims.	Failed in Senate Judiciary Committee
SB 910 Margett	<u>Unfair Competition</u> Would make non-substantive changes to the definition of "unfair competition" and the assessment of civil penalties for acts of unfair competition that may be recovered in an action brought by a governmental entity or by a person acting for the interests of itself, its members, or the general public.	Two Year Bill
SB 912 Ackerman	<u>Unfair Competition: Private Enforcement Actions</u> Would have prohibited private lawsuits brought in the public interest under the Unfair Competition Law, if they were based on violations already identified by the enforcing regulatory agency, with a specified exception, or if the violations already were the subject of civil, criminal, or administrative proceedings.	Died in Senate Judiciary Committee
SB 1028 Ashburn	<u>Veterans: Public Records</u> Would have provided that any veteran's record that was recorded would be confidential and that copies of the records could be furnished only to either the person who was the subject of the record upon presentation of proper photo identification, or to a county office that provides veterans' benefits services upon written request of that office. Would have required a county recorder to keep an index of recorded veteran's records, which would have been a public record subject to disclosure under the California Public Records Act.	Died in Senate

SB 1033
Murray

Recording Industry Accounting Practices

Two Year Bill

Would declare the intent of the Legislature to enact legislation regarding the accounting practices of the recording industry.

(10) NEW/PROPOSED REGULATORY PROGRAMS

AB 699
Lieber

Hospital and School Construction Inspectors

**Died in
Assembly
Appropriation
s Committee**

Would have required the Legislative Analyst's Office, by January 1, 2005, to complete and submit to the Legislature a study concerning the construction inspector certification programs of the Office of Statewide Health Planning and Development and the Department of General Services.

Originally, would have established the Board of Registered Construction Inspectors (BRCI) within the Department of Consumer Affairs. Would have removed the construction inspection authority of hospitals and schools from the Office of Statewide Health Planning and Development and the State Architect and place it under the oversight of BRCI.

SB 907
Burton

Bureau of Naturopathic Medicine

**Enacted
Chapter #485**

Creates the Bureau of Naturopathic Medicine within the Department of Consumer Affairs. Establishes a new licensure category of naturopathic doctor, defines a scope of practice, and establishes standards for licensure and regulation by the bureau. Requires the department to certify that sufficient funds are available in the Naturopathic Doctor's Fund prior to implementation.

(11) PRIVACY/IDENTITY THEFT

AB 46
Simitian

Social Security Numbers: Restricted Use by Colleges and Universities

Two Year Bill

Would restrict the use of Social Security numbers (SSNs) by public and private colleges and universities and prohibit schools from using students' SSNs as student identifiers in a manner that is available to the public or an unauthorized third party, except as specified or required by law. The author's office has indicated that it does not plan on pursuing this bill because SB 25 (Bowen, Chapter 907, Statutes of 2003) enacted restrictions on state agencies' use of SSNs.

AB 49
Simitian

Office of Privacy Protection: High Tech Crime Advisory Committee

**Enacted
Chapter #618**

Updates and amends the statute regarding the High Technology Crime Advisory Committee (HTCAC) that serves to advise the successor to the now defunct Office of Criminal Justice Planning (OCJP). The portion of the bill relevant to DCA, specifies that a representative from the Office of Privacy Protection be appointed to participate in the HTCAC, which was formed to develop a strategy to address high technology crime in California and to advise OCJP on the appropriate disbursement of funds to regional high technology crime task forces.

AB 68 Simitian	<u>Online Privacy Protection Act of 2003</u>	Enacted Chapter #829
	<p>Enacts the Online Privacy Protection Act of 2003, effective July 1, 2004, that requires an operator of a commercial website or online service that collects personally identifiable information (PII) through the Internet about California consumers to conspicuously post and comply with its privacy policy. The privacy policy must identify the categories of PII collected, the categories of third-party entities with whom it is shared, and if individuals may review and request changes to their PII. An operator violates this statute if it knowingly and willfully, or negligently and materially, fails to comply with its privacy policy. An operator is allowed 30 days from being notified of its noncompliance to post its privacy policy.</p>	
AB 70 Wyland	<u>Identity Theft: Penalties</u>	Two Year Bill
	<p>Would change the penalties for the crime of identity theft from the current alternate felony/misdemeanor to instead require the penalty to be a misdemeanor if the cost of the crime is less than \$500 and a felony if the cost is over \$500. This bill was later substantially amended to a non-related issue.</p>	
AB 73 Lowenthal	<u>Unsolicited Checks</u>	Two Year Bill
	<p>Would prohibit a solicitation for an extension of credit by various financial entities through the use of an unsolicited check or other unsolicited negotiable instrument unless the company provides the consumer with a mechanism to choose not to receive unsolicited checks and unsolicited negotiable instruments. Specifically, this legislation would protect consumers from identity theft and ensuing liability when unsolicited checks are stolen by 1) ensuring the consumer knows when negotiable instruments are coming; and 2) making the financial institution liable for any loss through theft if negotiable instruments are sent unsolicited in violation of this bill.</p>	
AB 213 Leslie	<u>Vehicles: Manufacturers: Disclosure</u>	Enacted Chapter #427
	<p>Restricts the use of data from recording devices installed in motor vehicles manufactured on or after July 1, 2004. Defines a "recording device" as a device installed by the manufacturer of a vehicle which does one or more of the following, for the purpose of retrieving data after an accident: 1) records how fast and in which direction the motor vehicle is travelling, 2) records a history of where the motor vehicle travels, 3) records steering performance, 4) records brake performance, 5) records the driver's seatbelt status, or 6) has the ability to transmit information concerning an accident to a central communications system at the moment the accident occurs. Provides that data recorded by a recording device is the sole property of the registered owner of the vehicle and may not be retrieved by any other person, except under specified circumstances. Requires that the presence of a recording device be disclosed in the vehicle owner's manual. Provides that recording devices which record where a vehicle travels or can transmit contemporaneous accident data that are part of a subscription service are not subject to the bill's restrictions on use of information. Requires that the presence of such devices be disclosed in the subscription service agreement.</p>	

AB 215 Leslie	<u>Identity Theft: Expanded Definition</u> Would have expanded the definition of identity theft to include the <i>intent</i> to use personal identifying information (PII) for any unlawful purpose, in addition to the actual crime of using the PII for an unlawful purpose. This would have increased the current misdemeanor penalty for the crime of intent to use PII and made the penalty equivalent to the crime of identity theft, which is an alternate felony/misdemeanor.	Failed in Assembly Public Safety Committee
AB 224 Kehoe	<u>Identity Cards: Use and Retention of Personal Information</u> Would prohibit retailers from electronically reading an identity card, except under specified circumstances, and establishes an opt-in process to allow retailers to retain information upon consent from the consumer. (Note: The authors' office indicated that it does not plan to pursue this bill because SB 602 (Figueroa, Chapter 533, Statutes of 2003) enacted restrictions on the use and retention of information encoded on driver's licenses and ID cards.)	Two Year Bill
AB 239 Bates	<u>Identity Theft of Minors: Sentence Enhancements</u> Would increase the penalties for adults who commit identity theft against minors by creating a one-year sentence enhancement for a variety of specified offenses related to minor child identity theft.	Two Year Bill
AB 258 Calderon	<u>Retail Sales Returns: Personal Identifying Information</u> Would have prohibited a retail store from requesting personal identifying information from a consumer who is returning or exchanging merchandise purchased with cash and specify that a receipt is sufficient identification.	Died in Assembly Judiciary Committee
AB 262 Chan	<u>Personal Information</u> Would prohibit marketing, as defined, of personal health information for any purpose not necessary to provide health care services to the patient without consent or authorization by the individual whose personal health information is being disclosed.	Two Year Bill
AB 567 Simitian	<u>Unsolicited Electronic Mail Advertisements</u> Would modify existing law to authorize the recipient of an unsolicited electronic mail advertisement to bring an action against the sender to recover actual damages or \$1,000, whichever is greater, for each violation. Also would establish that an electronic mail service provider whose policy on unsolicited electronic mail advertisements is violated may bring civil action to recover the actual monetary loss in the amount of \$100 for each electronic mail initiated or received, up to maximum of \$50,000 per day, whichever amount is greater.	Two Year Bill
AB 715 Chan	<u>Personal Information</u> Prohibits the marketing of individually identifiable medical information for any purpose not necessary to provide health care services to the patient, except to the extent expressly authorized by the patient or as otherwise authorized by law, as specified. Also provides certain exemptions from the definition of marketing, and increases the minimum type size from 8-point to 14-point type for patient authorizations for the release of medical information.	Enacted Chapter #562

AB 763 Liu	<u>Social Security Numbers: Restrictions on Mailing</u> Clarifies and strengthens existing law that restricts the mailing of Social Security numbers (SSNs) by clearly prohibiting a person or entity from mailing a SSN in a manner where it is visible. Specifically, prohibits full or partial SSNs from being printed on a postcard or other mailer not requiring an envelope, or being visible on an envelope or without opening the envelope.	Enacted Chapter #532
AB 1105 Jackson	<u>Identity Theft: Statute of Limitations</u> Specifies that the statute of limitations for the crimes of identity theft and publicly filing a false or forged document commences when the crime was <i>discovered</i> , instead of when it was committed.	Enacted Chapter #73
AB 1136 Maddox	<u>Release of Wage Information to Credit Reporting Agencies</u> Would have authorized the Employment Development Department, under specified circumstances, to disclose wage information to consumer credit reporting agencies for the purpose of verifying information provided by a consumer in connection with a specific credit or employment transaction.	Died in Assembly Insurance committee
AB 1143 Simitian	<u>Civil Procedure: Internet Communications</u> Would add internet service providers to the statutory list of witnesses who have and maintain personal records of a consumer that may be subject to a subpoena duces tecum for the providing of a consumer's personal records in connection with a civil action or proceeding. A subpoena duces tecum is defined as a process by which the court, at the request of a party, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial.	Two Year Bill
AB 1179 Parra	<u>Public Records</u> Would provide that a certified copy of a veteran's records would be made available only to the person who is the subject of the record upon presentation of proper photo identification, to a family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record, or to a county office that provides veteran's benefits services or a United States official upon written request.	Two Year Bill
AB 1294 Wiggins	<u>Identity Theft: Debt Collectors</u> Requires a debt collector to stop collecting a consumer debt if an alleged debtor is a victim of identity theft and provides a police report and written statement establishing the identity theft. Allows the debt collector to recommence collection activities if it makes a good faith determination that the information provided by the alleged debtor does not establish that s/he is not responsible for the debt.	Enacted Chapter #287
AB 1305 Bogh	<u>Identity Theft: DMV Fingerprint Comparison</u> Would require the Department of Justice to implement and maintain a fingerprint identification system, effective January 1, 2005, that would allow the Department of Motor Vehicles to cross-reference an applicant's fingerprints within the system to ensure that each individual is issued only one driver's license or ID card.	Two Year Bill

AB 1387 Yee	<u>Social Security Numbers: Use by the Legislature</u> Would have required the Legislature to establish and maintain a privacy policy for its members and employees and prohibited the use of a person's SSN as an identifier.	Died in Assembly Appropriations Committee
AB 1610 Pavley	<u>Consumer Credit Reports: Verification of Inconsistent Information</u> Requires credit grantors to take reasonable steps to verify the accuracy of a consumer's first and last name and Social Security number (in addition to their address) when the creditor discovers that the information on the credit application does not match the corresponding information in the consumer's credit report.	Enacted Chapter #41
AB 1664 Montanez	<u>Bank Customer Bill of Rights Act</u> Would prohibit banks from selling private credit information about a consumer to a marketing business without the consumer's consent, charging consumers for using the bank's automated teller machine an overdraft penalty that is \$30 or more without providing a prior notice, issuing a credit card that has an interest rate that is greater than two percent above the prime rate, and charging a customer with a higher than average interest rate on a loan if the customer qualifies for a lower interest rate and the bank has not made the customer aware of that fact.	Two Year Bill
AB 1772 Committee on Banking and Finance	<u>Identity Theft: Fraudulent Application and Account Information</u> Adds mail forwarding or receiving services (e.g. UPS Store, etc.) and office or desk space rental services to the list of entities that must provide fraudulent application and account information to identity theft victims and law enforcement when a victim discovers that his or her name was used by an identity thief to apply for or obtain credit or services.	Enacted Chapter #90
AB 1773 Committee on Banking and Finance	<u>Identity Theft: Search Warrants</u> Assists law enforcement in investigating identity theft cases by permitting a magistrate in the county where an identity theft victim resides to issue a search warrant for persons or property located in another county when the items to be seized are related to the crime of identity theft.	Enacted Chapter #137
SB 1 Speier	<u>The California Financial Information Privacy Act</u> Gives consumers more control over how their personal information is used by financial institutions by requiring financial institutions to send annual notices to consumers informing them of their privacy choices and prohibiting financial institutions from sharing consumers' personal information without the appropriate consent. Requires financial institutions to obtain consent (<i>opt-in</i>) from consumers before sharing nonpublic personal information with nonaffiliated third parties, and permits financial institutions to share information with affiliates and third parties for joint marketing agreements if the consumer does not <i>opt-out</i> of such information sharing. Financial institutions may share consumer's information without consumer consent with wholly-owned affiliates that share the same brand name and line of business, as specified.	Enacted Chapter #241

SB 12 Bowen	<u>Electronic Mail Advertising</u> <p>Would have deleted existing law that provides the recipients of unsolicited electronic mail advertisements with the ability to contact the sender in order to remove the recipient's address from the sender's mailing list and, instead, prohibited the sending of unsolicited e-mail ads from California or to a California e-mail address. Would have authorized recipients or electronic mail service providers to bring an action to recover either actual damages or \$500 for each individual violation, whichever is greater, up to a maximum of \$200,000 per day, and allowed the recovery of reasonable costs and attorney's fees. Would have specified that if the court finds that an unsolicited commercial e-mail violation was willful or knowingly committed, the court may increase the award to an amount equal to not more than three times the amount otherwise allowed.</p>	Died in Senate Business and Professions Committee
SB 25 Bowen	<u>Identity Theft: SSN Use by State Agencies & Security Alert Verification</u> <p>Enhances identity theft protections by: 1) requiring state and local agencies, as of January 2004, to comply with the restrictions on the use and public display of SSNs that currently apply to the private sector, with extended implementation dates for specified state agencies; and, 2) requiring creditors to take reasonable steps to verify a consumer's identity before extending credit when the consumer's credit report contains a security alert, and further requires them to contact the consumer at the telephone number s/he specified in the security alert.</p>	Enacted Chapter #907
SB 27 Figueroa	<u>Personal Information: Disclosure to Third Parties for Marketing Purposes</u> <p>Requires businesses, effective January 2005, that disclose their customers' personal information to third parties for direct marketing purposes to either: 1) provide customers, within 30 days of their request, with the categories of information disclosed, the names and addresses of the third parties, and examples of the products marketed; or, 2) maintain a privacy policy that provides consumers with a cost-free way to opt-in or opt-out of information sharing.</p>	Enacted Chapter #505
SB 58 Johnson	<u>Police Reports: Confidentiality in Court Records</u> <p>Would make police reports, arrest reports, or investigative reports that are part of a court record confidential and not open to public inspection. Would allow the public to file a motion for the release of these records, which the court could grant after redacting all personal identifying information about the victims and witnesses.</p>	Two Year Bill
SB 186 Murray	<u>Privacy: Unsolicited Commercial e-Mail Advertising</u> <p>Prohibits sending unsolicited electronic mail, with certain exemptions for existing business relationships, and creates stronger penalties and legal recourse for consumers who receive unsolicited electronic mail. Allows for penalties to be served on the advertisers themselves as opposed to the senders, resulting in increased deterrence.</p>	Enacted Chapter #487

SB 342 Florez	<u>Unsolicited e-Mail Advertisements</u>	Two Year Bill
	Would prohibit a person from sending an unsolicited e-mail advertisement unless it also includes the sender's identity, postal address, and e-mail address or telephone number along with a toll-free telephone number or valid return address already required under existing law that the recipient can contact to notify the sender not to e-mail any further unsolicited documents to the e-mail address or addresses specified by the recipient.	
SB 425 Poochigian	<u>Identity Theft: Clarification of Separate Offenses</u>	Two Year Bill
	Would clarify that each possession of another's personal identifying information (PII) is a separate and distinct offense relating to the misdemeanor count of possession of another's PII with intent to defraud.	
SB 544 Chesbro	<u>Veterans: Recorded Documents</u>	Enacted Chapter #301
	Requires, if any military veteran requests the recordation of any military discharge document, including a veteran's service form DD214, that the county recorder require the veteran to sign a form that acknowledges that the document becomes part of the official record of the county, and subject to inspection, as provided. Mandates that no copy of a recorded military discharge document may be issued except as provided by a specified provision of law proposed by this statute.	
SB 583 Committee on Insurance	<u>Personal Medical Information</u>	Two Year Bill
	Would make certain legislative findings and declarations relative to the right of individuals to privacy of personal medical information and to access of their own personal medical information relative to the federal Health Insurance Portability and Accountability Act of 1996.	
SB 590 Speier	<u>Consumers' Personal Information: Collection and Use by Merchants</u>	Vetoed
	Would have prohibited merchants from requesting or requiring a consumer to provide personal information when it is not necessary to complete the transaction. Also would have prohibited the merchant from sharing personal information with a third party (including affiliates), unless the transaction was necessary or the consumer was given the chance to opt-out of such information sharing.	
SB 598 Machado	<u>Confidentiality of Medical Information: Psychotherapy</u>	Died in Assembly Judiciary Committee
	Would have exempted disclosures made for purposes of diagnosis or treatment from procedures established in current law that specify how a health care provider may disclose information relating to a patient's participation in outpatient treatment with a psychotherapist.	

Identity Theft Prevention and Assistance Act

Enacts a series of measures related to credit reporting agencies, business practices, and identity theft investigations designed to prevent identity theft and assist identity theft victims. Specifically:

1. Requires credit reporting agencies (CRAs) to notify consumers when security alerts expire;
2. Creates penalties for CRAs that intentionally fail to place security alerts;
3. Caps the fee CRAs charge for security freezes at \$10 and \$12;
4. Creates a new misdemeanor that prohibits businesses from retaining information obtained by swiping driver's licenses and ID cards;
5. Requires specified businesses that receive a change of address for a replacement credit card or for new service to notify consumers of the change of address within 30 days;
6. Creates a process for the courts to compel a business to produce evidence of identity theft to victims about unauthorized accounts in their names, and enables victims to sue for damages for non-compliance;
7. Specifies that the local law enforcement agency in the victim's jurisdiction *may* refer the case to the law enforcement agency where the crime was committed for further investigation, which clarifies that the local law enforcement agency may investigate the crime itself and has a choice as to whether to forward it onto another jurisdiction.

Public Court Records: Redaction of SSNs from Divorce Filings

Establishes a procedure for keeping an individual's Social Security number (SSN) confidential in court filings for legal separation, dissolution or nullification of marriage by creating a separate one-page document containing the parties' SSNs to be placed in the confidential portion of the court file. Requires the Judicial Council to develop the form to be used and requires the form to contain a notice informing parties of their right to redact SSNs from documents and materials filed with the court.

Identity Theft: Fraudulent Application and Account Information

Clarifies and expands the requirement that specified entities must provide application and account information to an identity theft victim whose name was used by an identity thief to fraudulently apply for or obtain credit or service in the victim's name. In addition to new applications, expands the definition of "application" to include changes to an existing account, and clarifies that the definition of "forms and information" that must be provided to victims includes all paper records, and records of telephone and electronic applications and authorizations.

Criminal Identity Theft: Thumbprint Process to Clear Victims' Names

Provides relief to criminal identity theft victims and helps them clear their names by establishing a procedure where victims who claim under penalty of perjury not to be the person arrested can contest the charge by submitting their thumbprints to the court for comparison with the thumbprint of their imposter who was the person actually arrested. Ensures that the courts make a finding of factual innocence to clear the victim's name, as specified, and requires the courts to notify the Department of Motor Vehicles (DMV) of its determination. DMV is then required to reverse any revocation or suspension of driving privileges that resulted from the false charges.

SB 1028
Ashburn

Veterans: Public Records

Died in
Senate

Would have provided that any veteran's record that was recorded would be confidential and that copies of the records could be furnished only to either the person who was the subject of the record upon presentation of proper photo identification, or to a county office that provides veterans' benefits services upon written request of that office. Would have required a county recorder to keep an index of recorded veteran's records, which would have been a public record subject to disclosure under the California Public Records Act.

SJR 2
Figueroa

Privacy: Federal Preemption

Died in
Senate
Judiciary
Committee

Would have requested that the United States Congress exempt from federal preemption any state privacy law that provided greater protection to consumers than is or will be provided by federal law.

(12) TELECOMMUNICATIONS

SB 128
Bowen

Cellular Telecommunications Service

Two Year Bill

Would require providers of cellular telephone service to extend a minimum 30-day grace period to new customers during which the customer could have rescinded the agreement.

(13) UTILITIES

AB 69
Correa

Business: Unfair Competition

Two Year Bill

Would make a non-substantive technical change in provisions authorizing the Director of General Services to lease real property appurtenant to or part of the Lone Youth Facility, as described, to the Amador Regional Sanitation Authority for up to 30 years at the rate of \$1 per year for its continued use as a wastewater delivery and disposal system, subject to specified conditions.

Originally, would have imposed additional limitations on consumers bringing an action under California's Unfair Competition Law (UCL) including, among other things, that a court review any proposed judgment or settlement and that a court-approved judgment is conclusive, and bars any further similar actions against the same defendant.

AB 845
Vargas

Household Goods Carriers

Enacted
Chapter #646

Prohibits a household goods carrier (i.e., moving company) who operates without a valid permit issued by the Public Utilities Commission from bringing any legal action for moving services rendered and allows a consumer who used an unlicensed carrier to recover all compensation paid to that mover. Requires disclosure of the "Not to Exceed" contract price three days in advance of the move. Requires a carrier to release goods upon payment of the "Not to Exceed" price. Limits a carrier's lien on goods to the "Not to Exceed" price and places additional restrictions on the lien rights available to carriers. Makes a carrier jointly and severally liable for loss and damage caused by a sub-hauler.